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JOURNAL

OF

THE COUNCIL

OF THE

Legislative Assembly

OF THE

TERRITORY OF OREGON,

During the Fifth Annual Session,

BEGUN AND HELD AT SALEM, 5TH OF DECEMBER, 1853,

IN THE 78TH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

SALEM, OREGON:
ASAHEL BUSH, TERRITORIAL PRINTER.

1854.

JOURNAL

OF THE

Legislative Council.

AT a fifth regular session of the Legislative Assembly of the Territory of Oregon, begun and held at Salem, on the 5th day of December, in the year of our Lord 1853, Chester N. Terry, former Clerk, called the Council to order. The following members appeared in their seats, to wit: A. L. Humphrey of Benton and Lane counties; Levi Scott, of Umpqua, Douglas and Jackson counties.

On motion of Mr. Scott,

A. L. Humphrey was elected President, *pro tem.* The following members elect appeared, were qualified by Chester N. Terry, Judge of Probate of Marion county, and thereupon took their seats.

T. P. Powers of Clatsop county, Ralph Wilcox of Washington county, John Richardson of Yamhill, James M. Fulkerson of Polk.

On motion of Mr. Powers,

S. W. Beale of Clatsop, was appointed Clerk, *pro tem.*

On motion of Mr. Wilcox,

The Council adjourned till to-morrow morning, at 10 o'clock.

TUESDAY, DECEMBER 6th, 1853.

The Council met pursuant to adjournment.

James K. Kelly of Clackamas, and Benjamin Simpson of Marion, appeared, were qualified, and took their seats.

On motion of Mr. Simpson,

Council proceeded to organize by the election of officers; first of a President. Messrs. Simpson and Fulkerson were appointed to act as Tellers. Ralph Wilcox of Washington, was declared duly elected President.

On motion of Mr. Simpson,

A committee of two was appointed to conduct the President to the chair. Messrs. Kelly and Powers, were appointed the committee. The President having returned his thanks and taken the chair,

On motion of Mr. Powers,

The Council proceeded to the election of Chief Clerk. Messrs. Kelly and Richardson, were appointed to act as Tellers.

Samuel B. Garrett of Benton, was declared elected Chief Clerk.

On motion of Mr. Simpson,

The Council proceeded to the election of Assistant Clerk; Messrs. Simpson and Fulkerson, acting as Tellers. A. B. P. Wood of Polk county, was declared duly elected Assistant Clerk.

On motion of Mr. Simpson,

Council proceeded to the election of Enrolling Clerk, Messrs. Simpson and Fulkerson acting as Tellers. T. W. Beale of Clatsop was duly elected.

On motion of Mr. Powers,

Council proceeded to the election of Serjeant-at-arms, Messrs. Powers and Kelly acting as Tellers. The whole number of votes cast was eight, of which

Septimus Huelat, received	1
Joseph Sloan	3
D. Arber	1
John K. Delashmutt	3

There being no election, on motion of Mr. Simpson, the Council proceeded to the election of Doorkeeper; Messrs. Simpson and Richardson acting as Tellers. John Gould, having received the largest number of the votes cast, was declared duly elected.

On motion of Mr. Simpson,

Council adjourned till 2 P. M.

Afternoon Session.

The Council met pursuant to adjournment.

On motion of Mr. Powers, the oath of office was administered, to the several officers elect, by Chester N. Terry, Judge of Probate of Marion county.

On motion of Mr. Simpson,

Council proceeded to the election of Serjeant-at-arms; Messrs. Richardson and Kelly acting as Tellers.

The whole number of votes cast was eight, of which
John K. Delashmutt, received - - - - - - 5
Joseph Sloan - - - - - - - - - 3

Mr. Delashmutt, having received a majority of the votes cast, was declared duly elected.

On motion of Mr. Powers,

Mr. Delashmutt, Serjeant-at-arms elect, was directed to come forward, and the oath of office was administered by Chester N. Terry, Judge of Probate of Marion county.

On motion of Mr. Simpson,

The House of Representatives was informed that the Council had organized, and was ready to proceed to business.

On motion of Mr. Simpson,

Rules of last session were adopted for the time being.

On motion of Mr. Powers,

The two rear desks on the left of the President were set apart for the use of reporters of the various papers.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President*:—I am directed, by the Speaker of the House of Representatives, to inform you that the House has organized by the election of Z. C. Bishop, Speaker; John M'Craken, Chief Clerk; C. P. Crandall, Enrolling Clerk; G. D. R. Boyd, Assistant Clerk; G. D. Russell, Serjeant-at-arms; Joseph Hunsaker, Doorkeeper; and is ready to proceed to business."

On motion of Mr. Scott, a committee of three was appointed to prepare rules for the government of the Council.

The President appointed Messrs. Scott, Simpson and Kelly, the committee.

On motion of Mr. Powers,

Council adjourned till to-morrow morning, at 9 o'clock.

WEDNESDAY, DECEMBER 7th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Powers, Richardson, Scott, Simpson and Mr. President.

Absent—Messrs. Humphrey, Kelly and Phelps.

Journal of yesterday was read, corrected and adopted.

Mr. Scott, from the Committee on Rules for the government of the Council, submitted the following report, which, on motion of Mr. Powers, was received:

"The committee appointed to prepare rules for the Government of the Council, beg leave to report the rules of the Council of the last session, with the following additions and amendments:

"Rule four to be amended so as to read as follows:—

"Twelve standing committees, to consist of three members each,

shall be appointed at the commencement of the session, viz.: a Committee on the Judiciary, a Committee on Ways and Means, a Committee on Elections, a Committee on Education, a Committee on Claims, a Committee on Incorporations, a Committee on Counties, a Committee on Military Affairs, a Committee on Commerce, a Committee on Engrossed Bills, a Committee on Enrolled Bills, a Committee on Roads and Highways. All committees shall be nominated by the President, unless otherwise desired by the Council, in which case they shall be appointed by ballot.

"Also the following amendment to be added to the 17th rule, after the word 'printed,' viz.: 'Except such as are already printed in the report of the Code Commissioners.'"

On motion of Mr. Richardson,

The report of the committee was adopted.

Mr. Powers offered the following resolution, (C. J. R. No. 1,) which, on motion of Mr. Simpson, was laid on the table:

Resolved, by the Council, the House concurring, that a Committee of two, on the part of the Council, be appointed to join such Committee as may be appointed by the House, to wait on His Excellency, the Governor, and inform him that the two Houses of the Legislative Assembly of the Territory of Oregon, are duly organized, and have proceeded to business.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed, by the Speaker of the House of Representatives, to inform you of the passage of the following resolution, (H. J. R. No. 1): *Resolved*, the Council concurring, that his Excellency, the Governor, be informed that the Legislative Assembly of Oregon is now organized."

A message from the House by Mr. M'Craken, Clerk:

"*Mr. President:*—I am directed, by the Speaker of the House, to inform you that the following resolution (H. J. R. No. 2,) has passed this House: *Resolved*, that a Committee of three be appointed on the part of the House, to act with a like Committee of the Council, to draft and report joint rules for the government of the two Houses."

On motion of Mr. Powers,

House J. R. No. 2, in relation to the memorial to Congress, concerning the expenses of the Rogue River war, was concurred in. Messrs. Powers, Kelly and Simpson, were appointed a Committee on the part of the Council, to carry out the object of the resolution.

Mr. Kelly offered the following resolution, (C. R. No. 1,) which, on motion of Mr. Richardson, was adopted:

Resolved, By the Council, that the session of each day shall commence at 9 o'clock, A.M., and 2 o'clock, P.M., until otherwise provided for.

On motion of Mr. Simpson, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

Hon. Lucius W. Phelps, of Lime county, appeared and took his seat.

Mr. Kelly, on behalf of the Commissioners to frame a Code of Laws for the Territory of Oregon, submitted a report, which, on motion of Mr. Powers, was adopted.

The President announced the following standing committees:

Judiciary,	Messrs.	Kelly, Simpson and Powers.
Ways and Means,	"	Simpson, Richardson and Humphrey.
Elections,	"	Fulkerson, Scott and Phelps.
Education,	"	Powers, Kelly and Humphrey.
Claims,	"	Richardson, Scott and Simpson.
Incorporations,	"	Humphrey, Phelps and Powers.
Counties,	"	Scott, Fulkerson and Kelly.
Military Affairs,	"	Phelps, Richardson, Fulkerson.
Commerce,	"	Powers, Humphrey, Scott.
Engrossed Bills,	"	Kelly, Richardson, Fulkerson.
Enrolled Bills,	"	Simpson, Powers, Phelps.
Roads & Highways,	"	Richardson, Phelps, Fulkerson.

Mr. Powers, from the Committee to prepare and report joint rules, submitted the following report:

The Committee to prepare and report joint rules for the government of the two branches of the Legislative Assembly of Oregon Territory, report the joint rules adopted by the last Legislature, with the following amendment: "'Rule 12th.' After the word 'bill,' insert 'and joint resolutions.'"

On motion of Mr. Simpson,

The report of the committee was adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying resolution (H. J. R. No. 3,) has passed the House, and the concurrence of the Council is requested therein."

On motion of Mr. Simpson,

(H. J. R. No. 1,) in relation to giving information to the Governor of the organization of the two Houses, was taken up, and concurred in.

Mr. Simpson moved the following amendment to H. J. R. No. 3: "Strike out of the sixth line the words 'the Houses,' and insert 'their respective Houses.'"

On motion of Mr. Simpson,

Resolution as amended, was adopted.

A message from the House, by Mr. M'Craken, their Clerk:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you, that the accompanying resolution (H. J. R. No. 4,) has passed the House, and the concurrence of the Council is requested.

On motion of Mr. Powers,

H. J. R. No. 4, was agreed to, and Messrs. Powers, Kelly and Fulkerson, were appointed the Committee on part of the Council.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed, by the Speaker of the House of Representatives, to inform you that the House has adopted the report of the joint Committee on Joint Rules."

The President submitted a report from the University Land Commissioners.

On motion of Mr. Simpson,

Twenty-five copies of the report were ordered to be printed.

Mr. Powers offered the following resolution, (C. R. No. 2,) which, on motion of Mr. Richardson, was adopted:

Resolved, that the Clerk be instructed to subscribe for a sufficient number of the different public journals of this Territory, to supply the members and officers of the Council with a copy of each, during the present session.

On motion of Mr. Fulkerson,

The Council adjourned.

THURSDAY, DECEMBER 8th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Powers, Phelps, Richardson, Scott, and Mr. President.

Absent—Mr. Simpson.

Journal of yesterday was read and adopted.

Mr. Simpson presented the petition of Wm. Fulbright and others, for the re-location of a territorial road from Oregon City to Spores' Ferry.

On motion of Mr. Simpson,

The petition was referred to Committee on Roads and Highways.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the House has concurred in the amendment to the accompanying resolution, (H. J. R. No. 3,) and Messrs. Grover, Boise, Elkins, Peebles, and Miller have been appointed the Committee on the part of the House."

The President announced Messrs. Kelly, Fulkerson, Scott, Phelps, and Powers, a Committee on the part of the Council to

meet the Committee of the House, and report the time and mode of the action of the two Houses, upon the report of the Code Commissioners.

Mr. Fulkerson submitted the following resolution, which was adopted:

Resolved, That the Committee on Education be instructed to report a resolution asking the Surveyor-General of this Territory, to cause so much of the unsurveyed land of this Territory to be surveyed, as to enable the County Commissioners to select other lands in lieu of sections sixteen and thirty-six, where the same have been taken by settlers, or any part thereof.

On motion of Mr. Powers, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

Mr. Fulkerson, by consent, presented a bill (C. B. No. 1,) to appropriate certain school funds. Read a first time, and passed to a second reading.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed, by the Speaker of the House of Representatives, to inform you that the accompanying resolution (H. J. R. No. 5,) has passed this House, and the Council is requested to concur therein.

Mr. Kelly, from the joint Committee appointed to report the mode of action of the two Houses on the report of the Code Commissioners, submitted the following report:

"The Committee of five, on the part of the Council, appointed to confer with a like Committee on the part of the House, to consider and report to their respective Houses in what manner the report of the Commissioners elected to prepare a Code of Laws for the Territory of Oregon, should be entertained and considered by the Legislative Assembly, beg leave to report that such joint committee have had the subject under consideration, and that they deem it most advisable that a joint select committee be appointed, to consist of five members on the part of the House, and four members on the part of the Council, whose duty it shall be to take up the report of the Code Commissioners, and consider the same in such order as they shall think best, and report the same, from time to time to the Council, in as expeditious a manner as may be, with or without amendments, as in their judgment shall be deemed most proper: and that the Council shall take exclusive original action on said reports; and further, that said joint committee be instructed to confer, in their deliberations upon any particular portion of the report of said Code Commissioners, with the appropriate standing committee, of each House, under whose notice such particular

subject should properly come, previously to making any report to the Council as aforesaid, in relation to such subject."

On motion of Mr. Simpson,

The report was received and adopted.

Mr. Kelly moved to concur in the resolution of the House, (H. J. R. No. 5,) embodying the recommendations of the report of the joint committee. Pending which motion, on motion of Mr. Simpson, the Council adjourned.

FRIDAY, DECEMBER 9th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Phelps, Powers, Richardson, Scott and President.

Absent—Messrs. Humphrey and Simpson.

Journal was read and approved.

Mr. Powers presented the petition of Sol. H. Smith and others, praying for an act allowing the voters of Clatsop county to locate the county-seat of that county.

On motion of Mr. Powers,

The petition was referred to the Committee on Counties, with instructions to report by bill or otherwise.

Mr. Simpson offered the following amendments to H. J. R. No. 5, setting forth the manner of acting upon the report of the Code Commissioners, which was adopted:

"Strike out all after the word 'that,' in second line, and insert 'the joint Committee, to whom has been referred the report of the Commissioners to prepare a code of laws for the Territory of Oregon, be instructed to report each subject matter in order, without following the order as printed.'"

On motion of Mr. Simpson,

H. J. R. No. 5, as amended, was adopted.

Mr. Scott offered the following resolution, (C. J. R. No. 2,) which, on motion of Mr. Fulkerson, was adopted:

"Whereas, the Government of the United States has located and is now opening a military road from Myrtle Creek, in Umpqua Valley to Camp Stewart, in Rogue River Valley:

"*Resolved*, By the Council, the House concurring, that our Delegate in Congress, is hereby requested to use his best endeavors with Congress, to obtain an appropriation of ten thousand dollars, for the survey and opening of a military road, from Myrtle Creek to Scottsburg, which is the nearest navigable point."

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed, by the Speaker of the House of Representatives, to send you a copy of the following commu-

nication to this House from His Excellency, the Governor of Oregon, by his Secretary, Mr. Terry:

"EXECUTIVE OFFICE.

"SALEM, OREGON TERRITORY,
December 8th, 1853.

"*To the Speaker of the House of Representatives:*—

"SIR:—I have the honor to be in receipt of the communication written by your direction, and signed by John M'Craken, Esq., Clerk of the House of Representatives, enclosing the following joint Resolution:

"'*Resolved*, by the House, the Council concurring, that His Excellency, the Governor, be informed that the Legislative Assembly is now organized.'

"And, in reply, permit me to say, that it will afford me much pleasure to communicate such information, from time to time, as may be found in the archives of this office, and called for by the Legislative Assembly, or either branch thereof.

"Very Respectfully your obedient servant,

"JOHN W. DAVIS,
"Governor of Oregon."

On motion of Mr. Simpson,

Two hundred copies of the Governor's Communication were ordered to be printed for the use of the Council.

On motion of Mr. Simpson,

The vote of the Council, ordering two hundred copies of the Governor's Communication to be printed, was reconsidered, and five hundred ordered to be printed.

Mr. Powers offered the following resolution, (C. R. No. 4,) which, on motion of Mr. Simpson, was laid on the table:

Resolved, That the Council, during the afternoon session of this day, elect a Chaplain to officiate as such, during the present session.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that the House has concurred in the amendment of the Council to the resolution of the House, (H. J. R. No. 5,) 'prescribing the mode of acting upon the report of the Code Commissioners,' and Messrs. Grover, Boise, Smith, Carter and Miller, have been appointed the Committee on the part of the House."

The President announced Messrs. Kelly, Simpson, Humphrey and Scott, the Committee on the part of the Council, to act with the Committee of the House, in bringing forward the several parts

of the report of the Code Commissioners, for the action of the two Houses.

On motion of Mr. Kelly, Council adjourned.

AFTERNOON SESSION.—2 P. M.

Council met, pursuant to adjournment.

Mr. Richardson, from the Committee on Roads and Highways, to whom was referred the petition of William Fulbright, and others, praying for the re-location of a territorial road, from Oregon City to Spores' Ferry, reported a bill in accordance with the prayer of the petitioners, (C. B. No. 2,) which was read a first time; and, on motion of Mr. Richardson, the rules were suspended. And the bill was read a second time by its title.

On motion of Mr. Powers,

Bill was referred to the Committee of the Whole.

On motion of Mr. Richardson,

Council resolved itself into Committee of the Whole, on C. B. No. 2, "A bill to re-locate a territorial road from Oregon City to Spores' Ferry," Mr. Richardson in the chair.

After some time spent in committee, the bill was reported back to the Council by the Chairman of the committee, Mr. Richardson, with the following amendment: "Strike out all after the word 'roads,' in the seventh line of Section 2, and insert, 'in accordance with the provisions of an Act passed Feb., 4th, 1851, defining the manner of locating territorial roads.'"

On motion of Mr. Simpson,

Amendment from the committee was adopted.

On motion of Mr. Simpson,

Bill ordered to be engrossed, and read a third time, on Monday next.

On motion of Mr. Simpson,

Council adjourned till Monday morning, 9 o'clock.

MONDAY, DECEMBER 12th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Humphrey, Kelly, Phelps, Powers, Richardson, Scott, and President.

Absent—Messrs. Fulkerson and Simpson.

Journal of Friday was read and approved.

Mr. Kelly presented the petition of David Allen and Elizabeth E. Allen, to legalize their marriage, which, on motion of Mr. Kelly, was referred to a select committee of three, Messrs. Kelly, Powers, and Richardson, were appointed the committee.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. No. 2, "A bill to relocate a territorial road," as truly engrossed.

Mr. Kelly, from the joint Code Committee, submitted the following report of a bill (C. B. No. 3,) "to establish a Probate Court, define its duties and powers."

"The joint Code Committee beg leave to report a bill 'to establish a Probate Court, define its duties and powers,' contained in the report of the Code Commissioners, with the following amendments:

"1. In sec. 1, third line, strike out the word 'next,' and after the word 'election,' insert the following words, 'After the expiration of the term of Judges of Probate now in office.'

"2. Amend by striking out sections 6 and 7.

"3. Amend section 21 by striking out the word 'oath,' and insert in its stead 'affidavit.'

"4. Amend sec. 26 by striking out, in the last line, the words 'be heard from.'

"5. Amend sec. 32 by making the fee for taking the bond of executors and administrators, $1 00, instead of $3 00, and also the fee for taking bond in other cases, $1 00 instead of $2 00. Also fee for recording all papers required by law to be recorded, each 100 words, 30cts. instead of 37cts.

Bill, as amended by committee, read a first time, and passed to a second reading.

Mr. Kelly, from the joint Code Committee, submitted the following report:

"The joint Code Committee beg leave to report a bill, (C. B. No. 4,) 'respecting executors, administrators, and the distribution of real and personal estates,' contained in the report of the Code Commissioners, with the following amendments:

"1. To the end of sec. 3, add the words 'provided that this chapter shall not be so construed, as to prevent a widow under twenty-one years of age from acting as executrix or administratrix of her deceased husband's estate.'

"2. Amend by striking out the provision in the 5th subdivision of sec. 3.

"3. Amend secs. 24 and 25, by striking out of the third line, the words 'United States of America,' and insert in their stead, 'Territory of Oregon.'

"4. Amend by striking out 'security,' in 3d line of sec. 31, and inserting in its stead, 'sureties;' also, in the after parts of the bill, strike out 'securities' and insert the word 'sureties.'

"5. Amend by striking out sec. 54 on page 15 of Code Commissioners' report.

"6. Amend sec. 4, page 39, of Code Commissioners' report, by striking out the 2nd line, after the word 'intermarry,' the following words, 'and his father,' after the marriage, shall ac-

knowledge him as his child," all of which is respectfully submitted."

Bill, as amended by committee, read a first time, and passed to a second reading.

Mr. Powers moved to pass over the reading of C. B. No. 4, and read the reports with the amendments. Agreed to.

C. B. No. 1. "A bill to appropriate certain school funds," read a second time.

On motion of Mr. Richardson,

The word "so," in 2d line of second section of the bill, was stricken out.

On motion of Mr. Powers,

Ordered to be engrossed, and read a third time to-morrow afternoon.

C. B. No. 2, "A bill to re-locate a territorial road," read a third time.

On motion of Mr. Humphrey,

Further consideration of the bill postponed till to-morrow afternoon.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed, by the Speaker of the House of Representatives, to inform you that the accompanying resolution (H. J. R. No. 6,) has passed the House, and the concurrence of the Council is requested therein."

On motion of Mr. Powers,

Council concurred in H. J. R. No. 6, relative to the delivery of the U. S. Mail at Port Umpqua.

The President announced Messrs. Scott, Humphrey and Phelps, a Committee on the part of the Council, to confer with the Committee of the House on the subject embraced in the resolution.

On motion of Mr. Kelly,

Rules were suspended, and C. B. No. 3., "A bill to establish a Probate Court, define its duties and powers," was read a second time by title.

Mr. Richardson, offered the following amendment: That the whole of section 31, as it now stands, be stricken out, and the following inserted in its stead: "This act shall take effect and be in force from and after the first day of May, next," which amendment was adopted.

On motion of Mr. Humphrey,

Bill ordered to be engrossed, and read a third time to-morrow.

Mr. Richardson, offered C. B. No. 5, "A bill to authorize supervisor to change a territorial road." Read a first time, and passed to second reading.

On motion of Mr. Kelly,

Rules were suspended, and C. B. No. 4, "A bill respecting executors and administrators, and the distribution of real and personal estates," was put upon its second reading.

On motion of Mr. Richardson,

The word "for," in second line of section 35, chapter 1, be stricken out, and the word "within" inserted.

Mr. Kelly offered the following amendment to chapter 12, section 2, page 41 of Code Commissioners' report: "This act shall take effect and be in force from and after the first day of May next."

Mr. Kelly moved that the bill be engrossed, and read a third time to-morrow; pending which motion,

On motion of Mr. Kelly, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

The question on adjournment being "shall C. B. No. 4, A bill respecting executors, administrators and the distribution of real and personal estates" be engrossed and read a third time to-morrow, was decided in the affirmative.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to forward the enclosed true copies of the Territorial Auditor's and Treasurer's reports."

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to inform you that the accompanying bill (H. R. No. 3,) has passed the House and the Council is requested to concur therein."

H. B. No. 3, "A bill to change the name of Clara A. Goodwin, was read a first time and passed to a second reading.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying memorial, relative to defraying the expenses of the Rogue River war, has passed the House, and the Council is requested to concur therein."

Joint memorial relative to expenses of the Rogue River war was read a first time.

On motion of Mr. Richardson,

The rules were suspended and the memorial read a second time by its title.

On motion of Mr. Scott,

The rules were further suspended and the memorial read a third time. The question being "shall the memorial pass?" was decided in the affirmative.

On motion of Mr. Powers,

Twenty-five copies of the reports of Territorial Auditor and Treasurer were ordered to be printed for the use of the Council.

On motion of Mr. Richardson, Council adjourned.

TUESDAY, DECEMBER 13th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott and Mr. President.

Absent—Mr. Simpson.

Journal of yesterday was read and approved.

Mr. Kelly, from the Committee on Engrossed Bills, reported the following bills as truly engrossed, viz: "A bill to establish a Probate Court, and define its duties and powers;" also "A bill to appropriate certain school-funds."

Mr. Kelly, from the joint Code Committee, reported a bill relating to wills, (C. B. No. 6.,) as reported by the Code Commissioners, with correction of typographical errors.

Bill, as reported by the committee, was read a first time, and, on motion of Mr. Kelly, rules were suspended and it was read a second time.

Mr. Kelly offered the following amendment to said bill: "strike out section 3 and insert, A married woman may, by will, dispose of any real estate held in her own right, subject to any rights which her husband may have as tenant by the curtesy," which amendment was agreed to.

Mr. Kelly offered the following amendment to the bill, which was adopted.

"This act shall take effect and be in force from and after the first day of May next."

On motion of Mr. Powers,

Bill, as amended, was ordered to be engrossed, and read a third time to-morrow.

Mr. Kelly, from the joint Code Committee, reported, C. B. No. 7, "A bill relating to parents and children, guardians and wards, and to masters, apprentices and servants," as reported by the Code Commissioners, omitting secs. 4 and 5 on page 41, contained in another part of the bill; and also correcting certain typographical errors.

Bill, as reported by the committee, was read a first time, and, on motion of Mr. Kelly, the rules were suspended, and the bill was read a second time by its title.

Mr. Simpson offered the following amendment:—"Strike out the word 'may,' in 2d line of sec. 13, and insert 'shall.' The amendment was adopted.

On motion of Mr. Fulkerson,

The word "may" was stricken out of the 6th line of section 11, and the word "shall" inserted.

On motion of Mr. Kelly,

The following amendment was added to the end of the bill:

"This Act shall take effect and be in force from and after the first day of May next."

On motion of Mr. Powers,

The bill was ordered to be engrossed and read a third time to-morrow.

Mr. Kelly, from the select Committee to whom was referred the petition of David Allen and Elizabeth E. Allen, praying that their marriage may be legalized, reported by bill, (C. B. No. 9,) which was read a first time; and, on motion of Mr. Simpson, the rules were suspended, and the bill was read a second time. On motion of Mr. Humphrey, the rules were further suspended and the bill put upon its third reading. The question being, "shall the bill pass?" was decided in the affirmative.

H. B. No. 3, "A bill to change the name of Clara A. Goodwin," was read a second time, and, on motion of Mr. Simpson, referred to the Committee on the Judiciary.

C. B. No. 5, "A bill to change and open a territorial road from Doak's Ferry to Lafayette," was read a second time, and, on motion of Mr. Simpson, referred to the Committee on Roads and Highways.

C. B. No. 1, "A bill to appropriate certain school funds," was read a third time, and the question being, "shall the bill pass?" was decided in the affirmative.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that the accompanying bill (H. B. No. 3,) has passed the House, and the Council is requested to concur therein."

H. B. No. 4, "To change the name of James A. Kingsbury," was read a first time, and passed to second reading.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying bill (H. B. No. 2,) has passed the House, and the Council is requested to concur therein.

H. B. No. 2, "A bill to create and establish the county of Tilemookz," was read a first time, and passed to second reading.

Mr. Powers presented the report of the Commissioners appointed to locate a territorial road from Astoria to Tualitin Plains, which was read a first time, and, on motion of Mr. Powers, referred to a select committee of three. Messrs. Powers, Richardson, Fulkerson, were appointed the committee.

On motion of Mr. Phelps, Council adjourned.

AFTERNOON SESSION.—2 P.M.

Council met pursuant to adjournment.

The question recurring on the final passage of C. B. No. 2, "A bill to re-locate a territorial road from Oregon City to Spores' Ferry," Mr. Simpson moved that the bill be recommitted to the Committee on Roads and Highways, which motion prevailing, the bill was so re-committed.

C. B. No. 3, "A bill to establish a Probate Court, define its duties and powers," was, on motion of Mr. Fulkerson, recommitted to the joint Code Committee.

Mr. Kelly, from the joint Code Committee, reported back Council B. No. 3, with the following amendments in sec. 4, viz.: strike out the word "thousand" where it occurs, and insert "hundred," also strike out of same sec. in 19th and 20th lines, the words "pay over all moneys that may come into his hands by virtue of his office," and, on motion of Mr. Simpson, the amendments of committee were adopted. The question recurring on the final passage of the bill, was decided in the affirmative.

Mr. Kelly, from the Judiciary Committee, to whom was referred H. B. No. 3, "A bill to change the name of Clara A. Goodwin," reported the same back without amendments, and with a recommendation that it pass.

On motion of Mr. Simpson,

The rules were suspended, and the bill was put upon its third reading. The question being, "shall this bill pass?" was decided in the affirmative.

Mr. Simpson, on leave, submitted the following resolution, (C. J. R. No. 3,) which was adopted:

Resolved by the Council, the House concurring, that a Committee of three be appointed on the part of the Council, to act with a like Committee on the part of the House, to draft a memorial to the Congress of the United States, asking an appropriation of land, the proceeds of which to be applied by the Legislative Assembly of the Territory of Oregon, to the improvement of the Willamette River.

On motion of Mr. Powers,

Council adjourned.

WEDNESDAY, DECEMBER 14th, 1853.

Council met pursuant to adjournment.

Present—All the members.

Journal of yesterday was read and approved.

Mr. Powers, from the Committee on Education, to whom was referred C. B. No. 3, reported the following resolution:

Resolved, by the Legislative Assembly of the Territory of Oregon, that the Surveyor-General of Oregon be, and he is hereby requested to cause to be surveyed, such unsurveyed and unoccupied lands as may be selected and pointed out by the county comissioners of the several counties, or such other officer or officers as they shall direct, so that they may select such unoccupied lands in pursuance of the act of Congress for that purpose, approved 7th day of January, 1853.

Mr. Kelly, from joint Code Committee, reported a bill (C. B. No. 9,) "to regulate the sale of lands of minors and other persons under guardianship, and securing the proceeds for their use," as reported by the Code Commissioners, with the following section added as an amendment:

Sec. 23. This act shall take effect and be in force from and after the first day of May next.

The bill as amended by committee was read a first time, and on motion of Mr. Kelly the rules were suspended, and it was read a second time. On motion of Mr. Powers the bill was considered engrossed, and ordered to be read a third time to-morrow.

H. B. No. 4, "An Act to change the name of James A. Kingsbury," was read a second time, and on motion of Mr. Simpson referred to Committee of the Whole.

H. B. No. 2, "An Act to create and organize the county of Tilemookz" was read a second time, and on motion of Mr. Fulkerson referred to Committee of the Whole.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that the House has passed 'A bill (C. B. No. 2,) to relocate a territorial road,' with the accompanying amendment, and the council are requested to concur in the amendment."

On motion of Mr. Simpson,

Council concurred in the amendment of the House to C. B. No. 2, "A bill to re-locate a territorial road."

A message from the House of Representatives by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House to inform you that the House has passed a bill (C. B. No. 8,) 'to legalize the marriage of David Allen and Elizabeth C. Allen,' and return the same to the House in which it originated, for enrollment. Also have concurred in a resolution (C. B. No. 3,) relative to the improvement of Willamette River, and Messrs. Peebles, Chapman, and Elkins were appointed a Committee on the part of the House. Also that this House has passed a bill

(H. B. No. 6,) 'to change the name of Polly Ann Wells,' and the Council is requested to concur therein."

H. B. No. 6, "To change the name of Polly Ann Wells," was read a first time, and on motion of Mr. Simpson, the rules were suspended, and it was read a second time. On motion of Mr. Simpson, the bill was referred to Committee of the Whole.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to inform you, that the House has passed a bill (H. B. No. 5,) 'To locate a territorial road from the Grand Round on the Yamhill, to the east end of the South Prairie on the Tilemookz River,' and it is herewith transmitted to the Council for concurrence."

H. B. No. 5, "A bill to locate a territorial road from Grand Round on Yamhill to Tilemookz River," was read a first time and passed to second reading.

Mr. Simpson offered the following resolution, (C. J. R. No. 5,) which was adopted:

Resolved, by the Council, the House concurring, that the joint Committee, to whom has been referred the report of the Code Commissioners, be instructed to report to their respective Houses, such portions of said report as they may think proper.

On motion of Mr. Simpson,

Council resolved itself into Committee of the Whole, on such business as may be before it. Mr. Fulkerson in the chair.

After some time the committee rose, and the Chairman reported H. B. No. 4, "A bill to change the name of James A. Kingsbury," back to the Council, with the following amendment:

Add to the first section, the following:

"*Provided,* that nothing contained in this Act shall be so construed, as to release said Kingsbury from any liabilities which he may be under."

The Chairman reported that the committee had, also, had under consideration "A bill to change the name of Polly Ann Wells," and that he was directed to report the same without amendments.

Also, H. B. No. 2, "A bill to create and organize the county of Tilemookz," with the following amendments:

1. Strike out the word "Tileamookz," wherever it occurs in the bill, and insert in its stead the word "Tilamook."

2. After the word "hereafter," in section 3, add the words, "changing these or."

On motion of Mr. Simpson,

H. B. No. 4, "to change the name of James A. Kingsbury," was taken up.

On motion of Mr. Simpson,

The word "after," in the amendment of committee, was stricken out, and the word "to," inserted.

On motion of Mr. Kelly,

The amendments of committee, as amended, were adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the House have concurred in C. J. R. No. 5."

On motion of Mr. Humphrey, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

On motion of Mr. Simpson,

That portion of the report of the Committee of the Whole, relating to the creation of the County of Tilamook, was taken up.

On motion of Mr. Simpson,

The amendments from the committee, were adopted.

On motion of Mr. Phelps,

The word "or," between the words "Clatsop and Yamhill," in first line, was stricken out, and the word "and," inserted.

Mr. Kelly, from the Committee on Engrossed Bills, reported the following bills as truly engrossed, viz:

C. B. No. 4, "An Act respecting executors, administrators, and the distribution of real and personal estate."

C. B. No. 7, "An Act relating to parents and children, guardians and wards, and to masters, apprentices and servants."

C. B. No. 6, "An Act relating to wills."

On motion of Mr. Powers,

C. B. No. 4, "relating to executors, administrators, and the distribution of real and personal estate," was read a third time by title and passed.

On motion of Mr. Kelly.

C. B. No. 6, "Relating to wills," was read a third time by its title, and the question being, "shall the bill pass?" was decided in the affirmative.

C. B. No. 7, "Relating to parents and children, guardians and wards, and to masters, apprentices and servants," was, on motion of Mr. Fulkerson, read a third time by its title, and the question being "shall the bill pass?" it was decided in the affirmative.

On motion of Mr. Powers,

Council adjourned.

THURSDAY, DECEMBER 15th, 1853.

Council met pursuant to adjournment.

Present—All the members.

Journal of yesterday was read, corrected and approved.

Mr. Scott, from the Committee on Counties, to whom was re-

ferred the petition of Sol. H. Smith and others, praying for an Act to authorise the voters of Clatsop county, permanently to locate the county-seat of that county, reported by bill, (C. B. No. 10.) "A bill to provide for the location of the county-seat of Clatsop county." Read a first time, and passed to second reading.

H. B. No. 5, "A bill to locate a territorial road from Grand Round to Tilamook River," was read a second time, and on motion of Mr. Powers, referred to Committee of the Whole.

H. B. No. 2, "A bill to create and organize the county of Tilamook," was read a third time, and passed.

H. B. No. 4, "A bill to change the name of James A. Kingsbury," was read a third time, and the question being "shall the bill pass?" it was decided in the negative.

On motion of Mr. Powers,

Council reconsidered the vote on H. B. No. 4. The question again recurring on the final passage of the bill, Mr. Simpson called for the yeas and nays, which were ordered.

Those who voted in the affirmative, are Messrs. Fulkerson, Kelly, Powers, Richardson, Simpson, and Mr. President—6.

Those who voted in the negative, are Messrs. Humphrey, Phelps and Scott—3.

So the bill was passed.

H. B. No. 6, "A bill to change the name of Polly Ann Wells," was read a third time and passed.

The President laid before the Council, the resignation of Lucius W. Phelps, a member of the Board of Commissioners, appointed to erect a territorial university.

Mr. Richardson offered the following resolution, which was adopted:

Resolved, by the Council, the House concurring, that the Commissioners appointed to erect a State House in the town of Salem, Marion County, Oregon Territory, be requested to report to the Legislative Assembly now in session at their earliest convenience.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that C. B. No. 3, "A bill to establish a Probate Court and define its duties and powers," has passed this House, and it is herewith returned for enrollment."

Mr. Powers, by leave, introduced a bill, (C. B. No. 11,) "A bill to amend an Act entitled "an Act for the preservation of clams and oysters."

The bill was read a first time and passed to a second reading.

On motion of Mr. Powers, Council adjourned.

AFTERNOON SESSION.—2 P. M.

Council met pursuant to adjournment.

Mr. Fulkerson, by leave, introduced a bill, (C. B. No. 12,) "to

provide for the filling of vacancies in the office of Judge of Probate, in Polk County." The bill was read a first time, and passed to a second reading.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the House have concurred in C. J. R. No. 6, "requesting reports from State House Commissioners," also that they have passed C. B. No. 4, "A bill respecting executors, administrators, and the distribution of real and personal estate," with the accompanying amendments, and the Council is requested to concur in the same."

On motion of Mr. Kelly,

Council concurred in the first amendment of the House to C. B. No. 4.

The question before the Council being, shall the Council concur in the 2d amendment of the House to C. B. No. 4? Mr. Fulkerson called for the yeas and nays, which were ordered.

Those who voted in the affirmative are Messrs. Fulkerson, Kelly, Richardson and Scott—4.

Those who voted in the negative are Messrs. Humphrey, Phelps, Powers, Simpson and Mr. President—5.

So the amendment was not concurred in.

On motion of Mr. Simpson,

Third amendment of House to the bill was concurred in.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the House have concurred in Council amendment to H. B. No. 4, "A bill to change the name of James A. Kingsbury," also that they have concurred in Council amendment to H. B. No. 2, "A bill to create and organize the County of Tilamook."

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. No. 9, "A bill concerning the sale of land of minors and other persons under guardianship, and securing the proceeds to their use," as truly engrossed.

On motion of Mr. Powers,

The bill was read a third time, and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to inform you that C. B. No. 6, "A bill relating to wills" has passed the House, and is herewith transmitted to the House in which it originated."

Mr. Kelly, from the joint Code Committee, reported a bill (C. B. No. 13,) "relating to crimes and misdemeanors."

On motion of Mr. Simpson,

Council adjourned.

FRIDAY, DECEMBER 16th, 1853.

Council met pursuant to adjournment.

Present—All the members.

Journal of yesterday was read and approved.

C. B. No. 12, "A bill to provide for the filling of vacancies in the office of Judge of Probate in Polk county," was read a second time.

Mr. Fulkerson offered the following amendment to the bill, which was adopted:

Strike out the whole of sec. 2, and insert, "The person so appointed shall qualify as required by an Act passed Jan. 29th, 1853, entitled "An Act to establish a Probate Court and define its duties and powers;" and at the time of filing his oath of office with the Clerk, shall enter into bond to the Territory of Oregon, in the sum of five hundred dollars, with good surety, to be by the Board of Commissioners approved, that he will deliver over to his successor all files, papers and books belonging to the Probate office; that he will keep in good order the records of his court, with faithful and correct alphabets and indexes to the same, and perform all other duties belonging to his office. This bond shall be deposited as required by the Act above referred to, and the appointee shall hold his appointment till the next general election; when the vacancy shall be filled by the election of a Judge of Probate as in other cases."

On motion of Mr. Fulkerson,

The bill was ordered to be engrossed and read a third time tomorrow.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that the House insists upon the amendment of sec. 2 of chap. 11 to C. B. No. 4, and the Council is requested to concur in said amendment."

Mr. Simpson, moved that the Council adhere to their refusal to concur in House amendment to section 2 of chapter 11 of C. B. No. 4. The question being, shall the Council refuse to concur? Mr. Simpson called for the yeas and nays, which were ordered.

Those who voted in the affirmative are Messrs. Humphrey, Powers, Simpson and Mr. President—4.

Those who voted in the negative are Messrs. Fulkerson, Kelly, Phelps, Richardson and Scott—5.

So the Council receded from their non-concurrence in House amendment to C. B. No. 4.

A message from the House by their Clerk, Mr. M'Craken:

Mr. President:—I am directed by the Speaker of the House of Representatives, to inform you that C. B. No. 7, "an act relating to parents and children, guardians and wards, and to masters, apprentices and servants," has passed the House, with the ac-

companying amendment to the 31st section of the 2d chapter, and the Council is requested to concur therein.

On motion of Mr. Kelly,

Council concurred in House amendment to C. B. No. 7.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that H. B. No. 8, "A bill to create and organize Coos county," has passed the House; also H. J. R. No. 9; and they are herewith transmitted to the Council for concurrence; also C. B. No. 9, has passed the House and is transmitted to the Council for enrollment.

House B. No. 8, "to create and organize the county of Coos," was read a first time and passed to a second reading.

H. J. R. No. 9, "to draft a memorial to Congress in relation to land titles in Oregon," was read.

Mr. Simpson offered the following amendments, which were adopted.

Strike out all between the words "reports" and "at" in the last line; also, insert the word "the" before the word "Congress."

On motion of Mr. Simpson,

The resolution, as amended, was adopted.

C. B. No. 13, "relating to crimes and misdemeanors," was read a first time, and on motion of Mr. Kelly the rules were suspended, and it was read a second time by its title. On motion of Mr. Powers it was referred to Committee of the Whole.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the House has concurred in Council amendments to H. J. R. No. 9, relative to drafting a memorial to Congress in reference to land titles in Oregon, and that Messrs. Grover, Colby and Bennett have been appointed the Committee on the part of the House."

The President announced Messrs. Kelly, Simpson and Scott a Committee on the part of the Council under H. J. R. No. 9, and Messrs. Richardson, Phelps and Humphrey, the Committee to act with the Committee of the House in memorialising Congress on the subject of the improvements of the Willamette River.

On motion of Mr. Kelly,

Council resolved itself into a Committee of the Whole on C. B. No. 13, "relating to crimes and misdemeanors," Mr. Powers in the chair. After some time the committee rose, reported progress, and asked and obtained leave to sit again.

On motion of Mr. Fulkerson, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

On motion of Mr. Kelly,

Council again went into Committee of the Whole on C. B. No.

13, "relating to crimes and misdemeanors," Mr. Powers in the chair. After some time spent in considering the bill, the committee rose, reported progress, and asked and obtained leave to sit again.

Mr. Richardson offered the following resolution.

Resolved, by the Council the House of Representatives concurring, that the Legislative Assembly of Oregon Territory, adjourn on Friday next, December 23d, and stand adjourned till Tuesday, January 3d, 1854.

On motion of Mr. Richardson,

Resolution was laid on the table.

On motion of Mr. Kelly,

Council adjourned.

SATURDAY, DECEMBER 17th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Phelps, Powers, Richardson, Simpson, Scott and President.

Absent—Mr. Humphrey.

Journal of yesterday was read, corrected and approved.

Mr. Kelly, from Committee on Engrossed Bills, reported C. B. No. 12, "A bill to provide for the filling of vacancies in the office of Judge of Probate of Polk county," as truly engrossed.

C. B. No. 10, "A bill to provide for the location of the seat of justice of Clatsop county," was read a second time by title.

On motion of Mr. Powers,

The word "is" in second line 6th sec., and fourth line of 7th sec. was struck out.

On motion of Mr. Powers,

The bill was considered engrossed, read a third time, and passed.

H. B. No. 8, "To create and organize the county of Coos," was read a second time, and on motion of Mr. Scott, referred to the Committee on Counties.

C. B. No. 11, "To amend an Act entitled an Act to preserve clams and oysters," was read a second time, and on motion of Mr. Kelly, referred to the Committee on the Judiciary.

C. B. No. 12, "To provide for the filling of vacancies in the office of Judge of Probate of Polk county," was read a third time, and passed.

Mr. Simpson moved to take up C. J. R. No. 7, fixing the time of recess of the Legislative Assembly, which was agreed to, and the resolution was adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House

of Representatives, to inform you that he has signed H. M. No. 1, and H. B. No. 3, and they are herewith transmitted for your signature. I am also directed to inform you that the House has passed the accompanying resolution, (H. J. R. No. 8,) and the Council is requested to concur therein."

H. J. R., No. 8, relating to an appropriation by Congress for defraying the expenses of the Cayuse war, was read, and on motion of Mr. Richardson adopted.

The President announced that he had signed H. M. No. 1, relating to the Rogue River war, also H. B. No. 3, to change the name of Clara A. Goodwin.

Mr. Richardson, by leave, introduced C. B. No. 14, "To change the name of Marysville, the county seat of Benton county," which was read a first time, and Mr. Richardson moved to suspend the rules and put the bill upon its second reading; which motion was not agreed to.

On motion of Mr. Simpson,

Council resolved itself into Committee of the Whole on C. B. No. 13, "relating to crimes and misdemeanors." Mr. Powers in the chair.

After some time spent in considering the bill, the committee rose, and reported it back to the Council, without amendments.

On motion of Mr. Simpson,

The bill was considered engrossed, read a third time, and passed.

On motion of Mr. Fulkerson,

Council went into Committee of the Whole on H. B. No. 5, "To locate a territorial road from Grand Round to Tilamook River." Mr. Scott in the chair.

After some time the committee rose and reported the bill back to the Council, with the following amendments:

1. Add after the word "pass," in second line of 3d sec., "also a copy in the office of the Secretary of this Territory, according to law in such cases made and provided."

2. After "services," in sec. 4th, second line, insert, "To be paid out of any money in the Territorial Treasury not otherwise appropriated."

On motion of Mr. Simpson,

First amendment of committee was adopted.

On motion of Mr. Richardson,

Second amendment of committee was adopted.

On motion of Mr. Fulkerson,

The rules were suspended and the bill read a third time. The question being, shall the bill pass? Mr. Phelps called for the yeas and nays.

Those who voted in the affirmative are, Messrs. Fulkerson, Kelly, Powers, Richardson, Simpson and President—6.

Those who voted in the negative are, Messrs. Humphrey, Phelps and Scott—3.

So the bill was passed.

On motion of Mr. Humphrey,

The vote to suspend the rules and put C. B. No. 14, to change the name of Marysville, upon its second reading, was reconsidered, and on motion of Mr. Humphrey, the rules were suspended and it was read a second time by title.

Mr. Richardson moved, to strike out "Corvalla" and insert "Corvallis."

On motion of Mr. Simpson,

The bill was ordered to be engrossed and read a third time on Monday.

On motion of Mr. Simpson,

Council adjourned till Monday, December 19, 9 o'clock, A.M.

MONDAY, DECEMBER 19th, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Phelps, Powers, Richardson, Scott, and Mr. President.

Absent—Messrs. Humphrey and Simpson.

Journal of yesterday was read and approved.

Mr. Kelly presented the petition of Geo. W. Jackson for a divorce.

On motion of Mr. Richardson,

The petition was referred to the Committee on the Judiciary.

Mr. Kelly from the Judiciary Committee, to whom was referred "a bill to amend an Act entitled an Act for the preservation of clams and oysters," reported "a bill for the preservation of clams and oysters," which, on motion of Mr. Powers, was read a first time.

Mr. Kelly, from joint Code Committee, reported "a bill to regulate proceedings in actions at law in the District and Supreme Courts.

On motion of Mr. Powers,

The bill was read a first time.

Council B. No. 19, "to change the name of Marysville, the county-seat of Benton county" was read a third time and passed.

Mr. Richardson, from Committee on Roads and Highways, to whom was referred C. B. No. 5, "a bill to locate a territorial road from Doak's Ferry to Lafayette," reported an amendment, striking out all after the enacting clause, and substituting a new bill, which was read a first and second time, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. Simpson,

The title of the bill was changed, so as to read, "an Act to open a territorial road from Salem *via* Doak's Ferry to Lafayette."

On motion of Mr. Powers,

Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed, by the Speaker of the House of Representatives, to inform you that he has signed the accompanying bills:

H. B. No. 6, "an Act to change the name of Polly Ann Wells;" H. B. No. 4, "an Act to change the name of James A. Kingsbury;" H. B. No. 2, "an Act to create and organize Tilamook county;" also that the following bills have passed the House:—H. B. No. 12, "a bill to legalize the election of certain persons as justices of the peace in Jackson County."

C. B. No. 12, "a bill to provide for the filling of vacancies in the office of Judge of Probate in Polk County,".

C. B. No. 10, "a bill to provide for the location of the seat of justice of Clatsop county," with the accompanying amendment, and the Council is requested to concur in the amendment; also that the accompanying resolutions, (H. J. R. No. 10, and H. J. R. No. 11,) have passed the House, and the Council is requested to concur therein; also that the House have concurred in C. J. R. No. 7, "relative to adjournment," and have also concurred in Council amendments to H. B. No. 5, "a bill to locate a territorial road from Grand Round to Tilamook River."

On motion of Mr. Powers,

Council concurred in H. amendment to C. B. No. 10.

House J. R. No. 11, relating to Mrs. Thurston's memorial to Congress, was taken up, and, on motion of Mr. Simpson, was passed.

H. J. R. No. 10, relative to the distribution and delivery of the U. S. mails, was read, and on motion of Mr. Simpson, referred to Committee of the Whole.

C. B. No. 15, "to charter Rickreall Academy," introduced by Mr. Fulkerson, was read a first and second time, and referred to Committee on Education.

Mr. Humphery, on leave, introduced C. B. No. 16, "to amend an Act entitled an Act to divorce Susan Marvin and her husband, Matthias Marvin."

The bill was read a first time, the rules suspended, read a second time, and referred to Committee of the Whole.

Mr. Powers, from the select Committee to whom was referred the report of the Commissioners appointed to locate a territorial

road from Astoria to the Willamette Valley, submitted a report which was read and referred to Committee of the Whole.

Mr. Kelly, from Joint Code Committee, on leave, reported, C. B. No. 17, "a bill regulating actions concerning real estate." C. B. No. 18, "a bill concerning the liens of mechanics," &c. C. B. No. 19, "a bill regulating proceedings to vacate charters," &c.

On motion of Mr. Powers,
Council adjourned.

TUESDAY, DECEMBER 20th, 1853.

Council met pursuant to adjournment.
Present—All the members.
Journal of yesterday was read and approved.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. No. 5, "to open a territorial road from Salem *via* Doak's Ferry, to Lafayette," as truly engrossed.

Mr. Kelly, from Committee on the Judiciary, to whom was referred the petition of Geo. W. Jackson for a divorce, reported a bill, (C. B. No. 20,) to grant the prayer of the petitioner, which was read a first time, and passed to a second reading.

Mr. Powers, from the Committee on Education, reported a bill, (C. B. No. 15,) "to charter Rickreall Academy," with the following amendment, which was adopted: Strike out in sec. 2d the words, "at that time" and insert, "on that Saturday as aforesaid." Ordered to be engrossed and read a third time to-morrow.

C. B. No. 11, "for the preservation of clams and oysters," was read a first and second time, and ordered to be engrossed.

H. B. No. 20, "to legalize the election of certain persons to the office of Justice of the Peace of Jackson County," was read a first and second time, and referred to Committee of the Whole.

C. B. No. 21, "to regulate the practice in the District and Supreme Courts," was read a second time by title.

Mr. Fulkerson moved that the bill be referred to the Committee on the Judiciary, with the following instructions; viz.: That the bill be reported back with the following amendments: 1. Actions for the recovery of debts on note, bond, book account, or otherwise; the action shall be brought in the county where the defendants may reside, or if they have no place of residence, then in the county where they may be found; or if there be more than one defendant, then in the county where either of them may be found, with instructions to make such further alterations as they may think proper and right.

Mr. Kelly offered the following amendment to the instructions, which was adopted:

The action shall be brought in the county where the defendants, or either of them reside, or may be found.

The question recurring on the motion to refer to the Judiciary Committee with instructions as amended, was decided in the negative.

On motion of Mr. Simpson,

The bill was referred to the Committee of the Whole.

On motion of Mr. Richardson,

Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

C. B. No. 17, "to regulate the sale of real property," was read a second time, and on motion of Mr. Kelly, ordered to be engrossed and read a third time to-morrow.

C. B. No. 5, "to open a territorial road from Salem via Doak's Ferry, to Lafayette," was read a third time and passed.

C. B. No. 18, "to regulate proceedings to vacate charters and letters patent and prevent the usurpation of office," was read a first time and passed to second reading.

C. B. No. 19, "to regulate mechanic's liens," was read a first time and passed to second reading.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to inform you that the accompanying bill, (H. B. No. 13,) "an Act to define the southern boundary of Lane county," has passed this House; also that the House has passed the bill, (C. B. No. 14,) and it is herewith transmitted for enrollment; also that the accompanying resolution, (H. J. R. No. 12,) has passed the House, and the Council is requested to concur therein.

H. B. No. 13, "to define the southern boundary of Lane county," was read a first time and passed to second reading.

H. J. R. No. 12, "directing President of Council to forward copies of resolutions and memorials to our delegate in Congress," was read, and on motion of Mr. Powers, adopted.

Mr. Humphrey, by leave, introduced a bill, (C. B. No. 22,) "to provide for the holding of Supreme and District Courts," which was read a first time and passed to second reading.

Mr. Kelly, on leave, introduced a bill, (C. B. No. 23,) "to provide for extra compensation of enrolling clerks," which was read a first time and passed to second reading.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to inform you that the accompanying memo-

rial (H. M. No. 2,) has passed the House, and the concurrence of the Council is requested.

H. M. No. 2, relating to the delivery of the U. S. Mail at Port Umpqua, was read a first time. On motion of Mr. Scott, the rules were suspended, and the memorial read a second time, and the rules being further suspended, it was read a third time and passed.

Mr. Simpson, by leave, introduced a bill (C. B. No. 24,) "to charter Santiam River Bridge Company," which was read a first time and passed to second reading.

On motion of Mr. Simpson,

Council resolved itself into Committee of the Whole, Mr. Phelps in the chair.

After some time spent in considering the business before it, the committee rose, and the Chairman reported back H. J. R. No. 10, "relative to a more correct mail delivery," without amendment; also that the committee had had under consideration the report of the select Committee in relation to the opening of a territorial road from Astoria to Willamette Valley," which he was directed to report back without amendment; also C. B. No. 16, "to amend an Act entitled an Act to divorce Susan Marvin from Matthias Marvin," without amendment; also H. B. No. 12, "to legalize the election of certain persons as Justices of the Peace in Jackson County," without amendment; also C. B. No. 21, "to regulate the practice in the Supreme and District Courts," with the following amendments:

1. In section 16, second line, strike out the word "parties," and insert the word "defendants."

2. In section 26, second line, page 120, strike out the words "within the time mentioned in this section."

3. In same section, strike out the words "be required to," in first and second subdivision of the section.

4. On page 128, section 78, insert second subdivision, as follows: "In an action for the recovery of money, or damages, on a cause of action arising upon contract, express or implied, when the defendant is about to depart from the territory, with intent to defraud his creditors."

5. Section 78, page 128, 3d subdivision, strike out the words "or on a promise to marry."

The committee rose, reported progress, and asked and obtained leave to sit again.

On motion of Mr. Simpson, Council adjourned till half-past six P. M.

EVENING SESSION.—Half-past Six P. M.

Council met pursuant to adjournment.

On motion of Mr. Simpson,

Council went into Committee of the Whole, on C. B. No. 21,

"To regulate the practice in the Supreme and District Courts," Mr. Phelps in the chair.

After some time spent in considering the bill, the committee rose, and the chairman reported the bill back with the following additional amendments:

6. Strike out the first clause of section 80, and insert: The order may be made when it shall appear to the judge, by the affidavit of the plaintiff, or any other person, that a sufficient cause of action exists, and that the case is one of those mentioned in section 78, which affidavit shall also be supported by the additional affidavit of some other disinterested person, that the case is one of those mentioned in section 78.

7. Strike out the word "affidavit," in section 80, and insert "affidavits."

8. Page 129, section 78, insert for 6th subdivision, the following: "When the defendant has removed, or disposed of his property, or is about to do so, with intent to defraud his creditors."

9. Strike out the first line of 3d subdivision, of section 5, page 157, and insert, "negroes, mulattoes, and Indians, or persons having one-half, or more, of Indian blood, in an action or proceeding to which a white person is a party."

10. Strike out of section 1, page 157, the words "who will punish false swearing."

Mr. Simpson moved the adoption of the first amendment, and called for the yeas and nays.

Those who voted in the affirmative are, Messrs. Fulkerson, Kelly, Humphrey, Phelps, Powers, Simpson, Scott, and the President—8.

In the negative—none.

Absent—Mr. Richardson.

Amendments 2, 3, 4, 5, 6, 7, 8, 9, 10, were successively adopted.

On motion of Mr. Simpson,

The bill was referred to Committee on the Judiciary.

On motion of Mr. Fulkerson, Council adjourned.

WEDNESDAY, DECEMBER 21st, 1853.

Council met pursuant to adjournment.

Present—All the members.

Journal of yesterday was read, corrected and approved.

H. B. No. 13, "To define the southern boundary of Lane county," was read a second time, and, on motion of Mr. Scott, referred to the Committee on Counties.

C. B. No. 18, "To regulate proceedings to vacate charters

and letters patent, and to prevent the usurpation of an office or franchise," was read a second time, and, on motion of Mr. Simpson, ordered to be engrossed and read a third time to-morrow.

C. B. No. 19, "Concerning the liens of mechanics, laborers, and other persons," was read a second time, and, on motion of Mr. Powers, ordered to be engrossed and read a third time to-morrow.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. No. 11, "For the preservation of clams and oysters," as truly engrossed; also C. B. No. 15, "To charter Rickreall Academy."

C. B. No. 11, "For the preservation of clams and oysters," was read a third time and passed.

C. B. No. 15, "To charter Rickreall Academy," was read a third time and passed.

C. B. 16, "To amend an Act entitled an Act to divorce Susan Marvin and Matthias Marvin," was taken up, and on motion of Mr. Simpson, was laid on the table.

On motion of Mr. Powers,

Council adopted the report of the select Committee relative to a territorial road from Astoria to Willamette Valley.

On motion of Mr. Powers,

H. J. R. No. 10, "relating to a more correct mail delivery," reported by the Committee of the Whole without amendment, was referred to the Committee on the Judiciary.

H. B. No. 12, "to legalise the election of certain persons as justices of the peace, in Jackson county," was read a third time and passed.

Mr. Kelly, from the joint Code Committee, reported a bill, (C. B. No. 25,) "relating to writs of mandamus and writs of prohibition," which was read a first time and passed to second reading.

Mr. Kelly, from the same committee, reported a bill, (C. B. No. 26,) "relating to *habeas corpus*, and proceedings thereon," which was read a first time and passed to second reading.

On motion of Mr. Phelps, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

C. B. No. 20, "to divorce George W. Jackson, from his wife Emerit," was read a second time.

Mr. Fulkerson moved to lay the bill on the table.

M. Richardson called for the yeas and nays.

Those who voted in the affirmative, are Messrs. Fulkerson, Phelps, Richardson, Simpson, Scott and Mr. President—6.

Those who voted in the negative, are Messrs. Kelly and Powers—2.

Mr. Humphrey, absent. So the bill was laid on the table.

C. B. No. 23, "to provide for the holding of Supreme and

District Courts," was read a second time, and on motion of Mr. Powers, referred to the Committee on the Judiciary.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying bill (H. B. No. 11,) has passed the House, and the Council is requested to concur therein."

H. B. No. 11, "to incorporate the Umpqua River Navigation and Manufacturing Company," was read a first time and passed to second reading.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills as truly enrolled: C. B. No. 7, "an Act relating to parents and children, guardians and wards, and to masters, apprentices and servants;" C. B. No. 8, "an Act to legalise the marriage between David Allen and Elizabeth E. Allen;" C. B. No. 10, "an act to provide for the location of the seat of justice of Clatsop county;" C. B. No. 9, "an Act to regulate the sale of land of minors and other persons under guardianship, and securing the proceeds to their use;" also, C. J. R. No. 3, "relative to improvement of Willamette River," and C. J. R. No. 5, "relating to instructions to joint Code Committee."

Mr. Scott, on leave, introduced C. B. No. 27, "to define the southern boundary of Umpqua county," which was read a first time, and passed to second reading.

On motion of Mr. Phelps, Council adjourned.

THURSDAY, DECEMBER 22d, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Humphrey, Phelps, Powers, Simpson, Scott and President.

Absent—Mr. Richardson.

Mr. Scott, from the Committee on Counties, to whom was referred H. B. No. 8, "to create and organize Coos county," reported the same with the following amendment:

Strike out all between the words "ridge," in the 4th line, and "to," in the 7th line, and insert the following: "between the waters of the Umpqua on the east, and the Coos and Coquell Rivers on the west; thence along the summit of the aforesaid dividing ridge, to the south-west corner of Douglass county; thence south across Rogue River, to the summit of the dividing ridge between the waters of Applegate Creek and Smith's River; thence along aforesaid ridge."

Mr. Scott, from the same committee, reported H. B. No. 13, "to define the southern boundary of Lane county," without amendment.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills and resolutions as truly enrolled: C. B. No. 3, "to establish a Probate court, and define its duties and powers; C. B. No. 2, to re-locate a territorial road; C. J. R. No. 7, relative to adjournment; and C. J. R. No. 6, requesting reports from State House Commissioners.

H. B. No. 11, to incorporate the Umpqua Navigation and Manufacturing Company, was read a second time. Mr. Fulkerson moved to lay the bill on the table, till the 5th day of January next, which motion was lost. Mr. Powers moved to refer the bill to the Committee of the Whole, which was lost. On motion of Mr. Simpson, it was ordered that the bill be read a third time to-morrow.

C. B. No. 23, providing for extra pay of enrolling clerks of the Legislative Assembly, was read a second time.

Mr. Kelly, offered the following amendment, which was adopted: insert before the word "enrolling," the words "Assistants and."

On motion of Mr. Simpson, the bill was ordered to be engrossed and read a third time to-morrow.

C. B. No. 25, relating to writs of mandamus and prohibition, was read a second time, and on motion of Mr. Simpson, ordered to be engrossed, and read third time to-morrow.

C. B. No. 26, relating to the writ of *habeas corpus*, and proceedings thereon, was read a second time, and on motion of Mr. Kelly, ordered to be engrossed and read a third time, to-morrow.

H. B. No. 8, to create and organize the county of Coos, was taken up, and the amendment offered by the Committee on Counties was adopted. The bill as amended was read a third time and passed.

H. B. No. 13, to establish the southern boundary of Lane county, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that he has signed the accompanying bills: C. Bills Nos. 7, 10, 8, 9, 2, 3 and C. J. Resolutions Nos. 5, 3, 6.

The President announced that he had signed the following bills and resolutions:

C. B. No. 7, an Act relating to parents and children, guardians and wards, and to masters, apprentices and servants.

C. B. No. 9, an Act to regulate the sale of land of minors and other persons under guardianship, and securing the proceeds to their use.

C. B. No. 10, an Act to provide for the location of the seat of justice of Clatsop county.

C. B. No. 3, an Act to establish a Probate Court, and define its duties and powers.

C. B. No. 8, an Act legalizing the marriage of David Allen and Elizabeth E. Allen.

C. J. R. No. 5, relative to instructions to joint code.

C. J. R. No. 3, relating to improvement of the Willamette river.

C. J. R. No. 6, requesting reports from State House Commissioners.

C. J. R. No. 7, relating to the adjournment of the Legislature.

C. B. No. 2, an Act to locate a territorial road.

Mr. Kelly, from the Judiciary Committee, to whom was referred C. B. No. 22, relating to the time of holding the District and Supreme Courts, reported the same back with the following amendments:

1. Strike out of sec. 1, last line, "first," and insert "second."

2. Strike out of sec. 3, all before the word "Douglass," and insert the following: "sec. 3. District Courts shall be held in the several counties on the following Mondays, to wit: In Clatsop on the 4th Monday in February and August; in Clackamas, the first in March and September; in Yamhill, the third in March and September; in Washington, the fourth in April and September; in Lane, the first in May and October; in Benton, the second in May and October; in Linn, the third in May and October; in Polk, the fourth in May and October; in Marion, the first in April and November."

3. Amend sec. 4, by adding, "and the county in which the accused is indicted, shall pay said judge five dollars per day, in travelling to and from said court, and during the time said court shall be in session, and travelling expenses.

4. Amend sec. 5, by adding, "and at the request of both parties may hold jury trials, and tax the expenses as costs of suit."

Amendments Nos. 1, 2 and 4 were, each in order, adopted; amendment No. 3 was rejected.

Bill, as amended, was ordered to be engrossed and read a third time to-morrow.

On motion of Mr. Simpson,

Council adjourned.

AFTERNOON SESSION.—2 P. M.

Council met pursuant to adjournment.

Mr. Kelly, from the Committee on Engrossed Bills, by consent, reported the following bills as truly engrossed: C. B. No. 17, to regulate actions relating to real estate; C. B. No. 18, regulating proceedings to vacate charters and prevent the usurpation of an office or franchise; and C. B. No. 19, concerning the liens of mechanics, laborers, and other persons.

C. B. No. 27, to define the southern boundary of Umpqua

county, was read a second time. On motion of Mr. Scott, ordered to be engrossed and read a third time to-morrow.

C. B. No. 24, to incorporate the Santiam River Bridge Company, was read a second time.

Mr. Phelps moved the following amendments, which were adopted:

1. Insert in sec. 7, sixth line, after the words "commissioners of," the words, "the county in which such land or materials are situated."

2. Section 11, line 4, strike out "county," and insert "counties of Linn and Marion in equal proportions."

3. Section 14, line 3, strike out "county," and insert, "and Linn counties."

Mr. Richardson offered the following amendment, which was agreed to: Insert in line 5, sec. 8, after the word "cents," the words, "each man and horse fifteen cents."

Bill, as amended, was ordered to be engrossed and read a third time to-morrow.

C. B. No. 17, to regulate actions relating to real property, was read a third time and passed.

C. B. No. 19, concerning the liens of mechanics, laborers, and other persons, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the accompanying bills have passed the House: H. B. No. 14, to create the office of inspector of fish in this Territory, and define his duties; H. B. No. 10, to provide for the location of the county-seat of Douglas county; H. B. No. 17, to appoint officers for the county of Tilamook; and the Council is requested to concur therein; also C. B. No. 15, to establish Rickreall Academy, and it is herewith transmitted for enrollment."

H. B. No. 14, to create the office of inspector of fish, was read a first time, and passed to second reading.

H. B. No. 17, to appoint officers for the county of Tilamook, was read a first time, and passed to second reading.

H. B. No. 10, to provide for the location of the county-seat of Douglass county, was read a first time, and passed to second reading.

Mr. Kelly, from the Committee on Engrossed Bills, by consent, reported C. B. No. 22 as truly engrossed.

On motion of Mr. Kelly,

Rules were suspended, and C. B. No. 22, "to provide for the holding of Supreme and District Courts," was read a third time, and passed.

On motion of Mr. Kelly, Council adjourned.

FRIDAY, DECEMBER 23d, 1853.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Simpson, and Mr. President.

Absent—Mr. Scott.

Journal of yesterday was read, corrected and approved.

Mr. Kelly, from the Judiciary Committee, to whom was referred H. J. R. No. 10, relative to a more correct mail delivery, reported the same back with the following amendments:

1. At the end of the preamble, after the word "mail," add "at St. Francisco, and the oft repeated mistakes in the delivery of the mails at their respective offices, where the said mails are delivered by the P. M. S. S. Company."

2. In the fifth line of the resolution, strike out the word "distributing."

3. In the tenth line of the resolution, after the word "mails," insert "forwarded without any unnecessary delay at San Francisco and."

4. In tenth line strike out the word "distribution," and insert "deliver."

5. In eleventh line, after the word "Oregon," insert "and all other offices where the mail steamer is required to deliver mails."

6. At the end of resolution add "and the Post Master General is farther most respectfully requested to cause the Post Office at Astoria to be again made a distributing office."

Mr. Kelly, from the Committee on Engrossed Bills, reported the following bills as truly engrossed:—C. B. No. 23, to provide for extra pay of Assistant and Enrolling Clerks of the Legislative Assembly; C. B. No. 25, relating to the writs of mandamus and prohibition; and C. B. No. 26, relating to the writ of *habeas corpus* and proceedings thereon.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills truly enrolled:—C. B. No. 4, respecting executors, administrators, and the distribution of real and personal property; C. B. No. 15, to incorporate Rickreall Academy; C. B. No. 6, relating to wills; C. B. No. 12, to provide for the filling of vacancies in the office of Judge of Probate of Polk county.

H. B. No. 14, to create the office of inspector of fish, was read a second time, and on motion of Mr. Kelly, was ordered to be read a third time on the third of January next.

H. B. No. 17, to appoint officers in the county of Tilamook, was read a second time, and on motion of Mr. Richardson, the rules were suspended, and the bill was read a third time and passed.

H. B. No. 10, to provide for the location of the county-seat.

of Douglass county, was read a second time, and on motion of Mr. Simpson, the rules were suspended and the bill was read a third time, and passed.

H. B. No. 11, to incorporate the Umpqua River Navigation and Manufacturing Company, was read a third time. Mr. Fulkerson moved to lay the bill on the table till the 3d day of January next, which motion did not prevail. The question recurring on the final passage of the bill, Mr. Fulkerson demanded the yeas and nays.

Those who voted in the affirmative are, Messrs. Humphrey, Kelly, Phelps, Powers, Richardson, Simpson, and Mr. President.—7.

Those who voted in the negative are, Messrs. Fulkerson and Scott—2.

So the bill was passed.

C. B. No. 23, to provide for extra pay of Assistant and Enrolling Clerks, was read a third time and passed.

C. B. No. 25, relating to writs of mandamus and prohibition, was read a 3d time and passed.

C. B. No. 26, relating to writs of *habeas corpus*, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying resolution (H. J. R. No. 14,) has passed the House, and the Council is requested to concur therein.

H. J. R. No. 14, relative to examination of the Penitentiary, was read and adopted. Mr. Humphrey was appointed a member of the committee, on the part of the Council, to carry out the objects of the resolution.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying bills: C. B. No. 22, to provide for holding the Supreme and District Courts; C. B. No. 17, an act to regulate actions concerning real property; C. B. No. 19, regulating proceedings to vacate charters and letters patent, and to prevent the usurpation of an office or franchise; and C. B. No. 10, concerning liens of mechanics, laborers and other persons; have passed the House, and they are transmitted for enrollment.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that Council Bills No. 1, an act to appropriate certain school funds, and C. B. No. 11, for the preservation of clams and oysters, have passed the House, with the accompanying amendments, and the Council is requested to concur therein.

On motion of Mr. Humphrey,

Council concurred in House amendments to C. B. No. 1, an act to appropriate certain school funds.

On motion of Mr. Powers,

Council concurred in House amendment to C. B. No. 11, an act for the preservation of clams and oysters.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that C. B. No. 13, has passed the House with the accompanying amendments, and the Council is requested to concur therein.

On motion of Mr. Fulkerson,

C. B. No. 13, relating to crimes and misdemeanors, was laid over till 4th day of January next.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that Messrs. Grover and Thompson, of Washington, have been appointed the Committee on the part of the House, to act with the Committee on the part of the Council, to examine the Penitentiary building, &c.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. No. 27, to define the southern boundary of Umpqua county, and C. B. No. 23, to incorporate Santiam River Bridge Company, as truly engrossed.

On motion of Mr. Fulkerson,

The further consideration of C. B. No. 27, to define the southern boundary of Umpqua county, was postponed till the 10th day of January next.

H. B. No. 25, to incorporate the Santiam River Bridge Company, was read a third time and passed.

On motion of Mr. Richardson,

Council adjourned till 3d day of January next.

TUESDAY, JANUARY 3d, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Powers, Simpson and Scott.

Absent—Messrs. Humphrey, Phelps, Richardson, and Mr. President.

On motion of Mr. Powers,

Mr. Fulkerson was appointed President, *pro tem.*

Journal of Friday, December 23d, was read and approved.

Mr. Kelly, from the joint Code Committee, reported the following bills: C. B. No. 28, a bill for the limitation of actions; C. B. No. 29, relating to actions on official securities for fines

and forfeitures, and to actions by and against public officers and public bodies.

C. B. No. 28, relating to limitations of actions, was read a first time and passed to second reading.

C. B. No. 29, relating to actions on official securities, &c., was read a first time and passed to second reading.

House amendments to C. B. 13, Nos. 3, 4, 6, 8, 11, 13, 14, 17, 19, 20, were successively concurred in. House amendments Nos. 1, 2, 7, 9, 10, 16 and 18 were not concurred in.

House amendment to No. 15 being under consideration, and the question before the Council being, "Shall the Council refuse to concur in the amendment?" Mr. Humphrey called for the yeas and nays, which were ordered.

Those voting in the affirmative are, Messrs. Fulkerson, Kelly, Humphrey, Powers, Simpson and Scott—6.

Voting in the negative, none.

So the Council refused to concur in the amendment.

On motion of Mr. Simpson,

House amendment No. 5, to C. B. No. 13, relating to crimes and misdemeanors, was amended by striking out the word "jury," and inserting the word "court."

On motion of Mr. Kelly,

House amendment No. 12 was amended by inserting sec. 10, of chap. 11, C. B. No. 13.

On motion of Mr. Simpson, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House, to inform you that he has signed the accompanying bills: C. B. No. 15, C. B. No. 6, C. B. No. 12, C. B. No. 4, and they are transmitted for your signature; also that the House has passed H. B. No. 19, a bill for the relief of J. Willis; H. B. No. 20, a bill for the relief of Clark Co.; and they are herewith transmitted to the Council for concurrence."

H. B. No. 20, for the relief of Clark Co., was read first time. On motion of Mr. Simpson, the rules were suspended and the bill read a second time.

On motion of Mr. Simpson, the bill was referred to the Committee of the Whole.

H. B. No. 19, for the relief of J. Willis, was read a first time, and, on motion of Mr. Powers, rules were suspended and the bill was read a second time. On motion of Mr. Kelly, it was referred to Committee of the Whole.

Mr. Kelly, from the Judiciary Committee, reported C. B. No. 21, to regulate the practice in the District and Supreme Courts,

with sundry corrections. On motion of Mr. Simpson, report adopted.

Mr. Kelly offered the following amendments, which were adopted:

1. Amend sec. 29, chap. 1, page 121, by striking out the words, "certified by the clerk," and inserting in their stead, "prepared by the plaintiff, his agent or attorney."

2. Amend sec. 6, chap. 2, page 139, by inserting, after word, "it," at the end of first sentence, the following "and also the name and residence of the witness or witnesses."

3. Amend sec. 37, chap. 2, page 144, by striking out all after the word "filed," in fourth line, and insert "with the clerk."

4. Amend by striking out sections 38 and 39, chap. 2, p. 144, and inserting in their stead:

SEC. 38: "If, upon the giving of a verdict or other decisions, either party shall move for a new trial, the reasons for the same, and the affidavits, if any, in support thereof, shall be filed as soon as practicable; and the motion shall be heard when the parties shall have had a reasonable time to prepare therefor."

SEC. 39. "If the motion be supported by affidavits, counter affidavits may be offered by the adverse party; and, if the cause be newly discovered evidence, the affidavits of any witness or witnesses, showing what their testimony will be, shall be produced, or good reasons shown for their non-production; and, in the consideration of any motion for a new trial, reference may be had to any proceedings in the case, prior to the verdict or other decision sought to be set aside.

5. Amend sec. 28, chap. 3, page 153, by adding to the end of the section, the following words: "The sheriff, before delivering a deed to any purchaser or redemptioner, shall submit the same to the District Court for the county in which the land lies, for its approval, and if there be no irregularity in the proceedings concerning the sale, such court shall indorse thereon its approval, and thereupon the sheriff shall deliver such deed to the person entitled to the same."

Amend by striking out chapter 5th, page 164, and inserting in its stead the following:

SEC. 1. Every final judgment, order or decision of a District Court, except in Chancery, may be re-examined upon a writ of error: in the same court for error in fact, and in the Supreme Court for error in law.

SEC. 2. Every such writ shall be prosecuted within two years and not after. But, if the party entitled to have such writ, shall be absent from the Territory, and shall not have been personally served with process, nor appeared to the action, or if such party be an infant, married woman, or imprisoned, or insane, then such writ may be prosecuted within two years from the removal of such disability, and not after; *Provided*, that absence from the

territory shall not entitle the party to a longer time than five years. The time limited shall include the day on which the judgment is rendered or the order or decision is made, or on which the disability ceases.

SEC. 3. A writ of error shall be deemed to have issued on the day on which the plaintiff in error shall file in the office of the clerk of the District Court where the record is, a written undertaking executed by two sureties to be approved by the clerk, for the payment of all the costs of such proceeding; and it shall not be necessary, in any stage of the proceedings, actually to sue out the writ of error.

SEC. 4. On the filing of such undertaking, the clerk shall issue a notice to the defendant in error, under the seal of the court, specifying the court in which, and the time when he is to appear to protect his interests: and if the præcipe direct the writ of error to be made returnable to the Supreme Court, he shall send thither a transcript of the record under the seal of the court. Such notice may be as nearly as applicable, in the following form:

Territory of Oregon,
County of } ss.

To C—— D——

You are hereby notified that A. B. has sued out a writ of error from the Supreme Court, to reverse the judgment of the District Court of said county, given in your favor against the said A. B., at the term 18 and unless you appear in the said Supreme Court, on the Monday of 18 the cause will be heard in your absence.

[SEAL.] Witness the seal of the said District Court, the —day of 18

E. F., *Clerk.*

SEC. 5. The notice may be served on the defendant in error, or his attorney of record, by any sheriff within his county, and shall be by delivering him a copy thereof, or it may be served by any other disinterested person; and the return of the sheriff endorsed thereon, or the affidavit of such other disinterested person shall be evidence thereof, and if served ten days before the return day, the cause may be heard at that term. If returned not found, the Court of Error may make such order for the service or publication of notice, as shall appear most likely in the particular case, to convey a knowledge of the proceeding to the defendant in error, and may then proceed as if the notice had been personally served.

SEC. 6. The transcript shall contain a copy of the writ, and return, the pleadings, the journal entries, and bills of exception, the execution and return, and such other matters, as the court or

judge shall have ordered to be made part of the record. Either party may have a *certiorari* to supply any diminution of the record.

SEC. 7. The Court of Error may fix the time for assigning errors and filing joinders. If errors in law be assigned, no joinder shall be necessary. One or more errors in fact may be assigned, and the defendant may put in the common joinder as a demurrer thereto, or may traverse, or confess, and avoid the facts assigned for error, and a separate issue shall be made on each.

SEC. 8. The judgment or other matter complained of may be affirmed, or may be reversed or set aside in whole or in part, or may be modified, or a different judgment or order may be substituted for that complained of, and the cause may be remitted to the District Court, for such further proceedings as the Supreme Court by mandate shall direct. Execution may issue from the Supreme Court, or its judgments may be executed by the District Court on a mandate for that purpose.

SEC. 9. If the undertaking for costs contain an additional undertaking to pay the judgment if affirmed and damages, or any new or modified judgment that may be given against the plaintiff in error, then all further proceedings by way of executing the judgment shall forthwith cease until the further order of the Court of Error. In such case if the judgment be affirmed or modified, or any new judgment be given against the plaintiff in error, damages may be awarded to the defendant in error, not exceeding ten per cent. upon the amount of the judgment, exclusive of interest and costs, if it manifestly appears that the proceeding was without probable cause, and merely for delay. And in cases where judgment is rendered against the plaintiff in error, judgment shall also be rendered against the sureties in the undertaking, to the extent of their liability, and execution shall issue against them accordingly.

SEC. 10. The undertaking for a writ of error may be in the following form:—

A. B. *vs.* C. D. } District Court, county of Judgment at term 18

We promise to pay all costs that may be awarded against A. B. on his writ of error in this cause, [and also the judgment if affirmed, and the damages, or any new or modified judgment that may be given against him].

E. F.
G. H.

SEC. 11. If after the undertaking be filed, either party shall die, or being a single woman, shall marry, the proper persons may, on motion, be made parties, and the cause shall proceed to judgment.

SEC. 12. Any person who may be a party or privy in any judgment, order or decision, may prosecute a writ of error to reverse the same, and the reversal shall inure to the benefit of all parties and privies therein; and no other party or privy shall afterwards prosecute a writ of error for the same cause.

SEC. 13. The reversal of a judgment, order, or decision, shall not affect the title of property, sold upon an execution issued upon such judgment, order, or decision, if such property be purchased at the sale by a stranger. But if purchased by the judgment creditor, the plaintiff in error may bring an action for the recovery thereof, and the court may award restitution thereof, or render such other judgment as justice shall require.

SEC. 14. When the Supreme Court shall be equally divided in opinion, the cause shall stand continued until all the judges are present.

SEC. 15. Whenever, on the trial of an action at law in the District Court, it shall be found to turn on important or doubtful principles of law, the court may direct a special verdict to be found; and in all cases the parties may agree upon the facts, and such agreement in writing, signed by the parties or their attorneys, shall be made part of the record. And all questions of law arising on special verdicts, agreed cases, motions for new trials, and all others in any manner arising in the District Courts, in law or equity, may be adjourned into the Supreme Court for decision; and the Supreme Court may give judgment, or remand the cause, or make any order, according to the law and justice of the case.

On motion of Mr. Kelly,

The bill was ordered to be engrossed and read a third time to-morrow.

On motion of Mr. Simpson,

Council resolved itself into Committee of the Whole, Mr. Powers in the chair. After some time spent in considering the business before it, the committee rose, and the Chairman reported back H. B. No. 19, for the relief of J. Willis, without amendment; also H. B. No. 20, for the relief of Clark county, with the following amendment: Strike out all after the enacting clause, and insert the following:

"That the sum of six hundred and twenty-seven dollars and twenty-five cents, or so much of the said sum as now remains due for territorial taxes from the county of Clark to the Territory of Oregon, be and the same is hereby released, to the said county of Clark."

The amendment was adopted.

On motion of Mr. Simpson,

The rules were suspended, the bill was read a third time and passed.

H. B. No. 19, was taken up, and on motion of Mr. Simpson,

the rules were suspended, the bill was read a third time and passed.

On motion of Mr. Kelly, Council adjourned.

WEDNESDAY, JANUARY 4, 1854.

Council met pursuant to adjournment.

Journal of yesterday was read, corrected and approved.

Present—Messrs. Fulkerson, Humphrey, Kelly, Powers, Simpson, Scott, and Mr. President.

Absent—Messrs. Phelps and Richardson.

Mr. Kelly submitted the petition of Lewis Love and 502 others, for the repeal of the Stevens' Ferry Charter.

On motion of Mr. Simpson,

The petition was referred to the Committee on the Judiciary.

Mr. Kelly submitted the petition of W. C. Brown and others, for a territorial road from Clackamas River, to intersect territorial road to Des Shutes River. On motion of Mr. Kelly, the petition was referred to the Committee on Roads and Highways.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills truly enrolled: C. B. No. 1, to appropriate certain school funds in Polk county; C. B. No. 18, regulating proceedings to vacate charters and letters patent, and to prevent the usurpation of an office or franchise; C. B. No. 22, to provide for the holding of the District and Supreme Courts.

Mr. Kelly, from the joint Code Committee, reported C. B. No. 30, relating to elections and mode of supplying vacancies in office, which was read a first time and passed to second reading; also, C. B. No. 31, relating to the qualifications of jurors and the mode of selecting them, which was read a first time and passed to second reading.

C. B. No. 28, for the limitation of actions, was read a second time. On motion of Mr. Kelly, ordered to be engrossed and read a third time to-morrow.

C. B. No. 29, relating to actions on official securities for fines and forfeitures, and to actions by and against public officers and public bodies, was read a second time, and on motion of Mr. Simpson, ordered to be engrossed and read a third time to-morrow.

On motion of Mr. Fulkerson, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

Mr. Kelly, by leave, introduced C. R. No. 5, as follows: *Resolved*, that the Committee on Corporations be instructed to

introduce a bill authorising the Commissioners of Counties to charter companies to build bridges across streams in their respective counties, and take tolls during a limited period of time not exceeding ten years.

Mr. Humphrey moved to amend by inserting "Judiciary Committee" in lieu of "Committee on Incorporations," which motion was lost.

On motion of Mr. Fulkerson, the resolution was adopted.

On motion of Mr. Simpson, Council adjourned.

THURSDAY, JANUARY 5th, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Powers, Simpson, Scott and Mr. President.

Absent—Messrs. Humphrey, Phelps and Richardson.

Mr. Kelly, from the Committee on Engrossed Bills, reported the following bills truly engrossed, viz: C. B. No. 28, for the limitation of actions; C. B. No. 29, relating to actions on official securities, for fines and forfeitures, and to actions by and against public officers and public bodies; C. B. No. 21, to regulate proceedings in actions at law in the District and Supreme Courts.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills truly enrolled: C. B. No. 17, An Act to regulate actions relating to real property; C. B. No. 11, An Act for the preservation of oysters.

Mr. Kelly, from the joint Code Committee, reported C. B. No. 32, relating to the support of the poor, which was read a first time and passed to second reading; also, C. B. No. 33, relating to the support of bastards; which was read a first time and passed to second reading.

C. B. No. 30, relating to elections and filling vacancies in office; was read a second time. On motion of Mr. Fulkerson, section 33, chapter 1, page 230, was amended by striking out the word "twenty," and inserting "thirty," in third line. On motion of Mr. Simpson, ordered to be engrossed, and read a third time to-morrow.

C. B. No. 31, relating to qualifications of jurors, and mode of selecting them, was read second time.

Mr. Kelly offered the following amendments, which were adopted: after the word "year," in second line of section 1st, page 204, insert the following words: "or, in case of omission or neglect, then at any following session." Also, strike out the words "two hundred," in section 3, page 205, and insert "one hundred and fifty."

Mr. Simpson offered the following amendment which was

adopted: add to end of section 2, chapter 1, "also ferrymen, public millers, and supervisors of roads."

Mr. Fulkerson offered the following amendment, which was adopted: strike out the word "twenty," in section 2, chapter 3, and insert "thirty."

Mr. Kelly offered the following amendment, which was adopted: in section 3, page 200, second line, strike out the words "certificate to each of the grand or petit jurors," and insert "list." Also, strike out the word "certificate," in fourth line, and insert "certified list." Also, strike out the word "one," in fourth line, and insert "juror."

Mr. President announced that he had signed the following bills:

C. B. No. 6, an Act relating to wills.

C. B. No. 15, an Act to charter Rickreall Academy.

C. B. No. 12, an Act to provide for the filling of vacancies in the office of judge of Probate of Polk county.

C. B. No. 4, an Act respecting executors, administrators, and the distribution of real and personal estate.

C. B. No. 29, relating to actions on official securities for fines and forfeitures, and to actions by and against public officers and public bodies, was read a third time and passed.

C. B. No. 28, concerning limitation of actions, was read a third time and passed.

C. B. No. 21, regulating proceedings in actions at law in Supreme and District Courts, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that the accompanying bill, (H. B. No. 22,) to change the name of Rogue River, has passed the House, and the Council is requested to concur therein."

H. B. No. 22, to change the name of Rogue River, was read a first time and passed to second reading.

Mr. Simpson moved to suspend the rules, and have the bill read a second time, which motion was lost.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you of the resignation of Samuel Parker, one of the Commissioners for the erection of a Penitentiary, and the resignation has been accepted by the House."

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that he has signed the accompanying bills, resolutions and memorials, viz: C. Bills Nos. 1, 14, 18, 22; H. Bills Nos. 10, 17, 5, 12, 13; H. M. No. 2; H. J. Resolutions, Nos. 1, 2, 3, 5, 11, 9, 4, 6, 12 and 8; and they are transmitted for your signature.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that the accompanying resolutions, H. J. R. No. 14, relative to extra mail service; and H. J. R. No. 15, relative to the establishment of land offices in Oregon, has passed the House, and the Council is requested to concur therein."

H. J. R. No. 14, relating to mail service was read, when Mr. Powers moved to amend by striking out the word "Portland," where it occurs, and inserting "Astoria," which motion was agreed to.

On motion of Mr. Fulkerson, resolution as amended was adopted.

H. J. R. No. 15, relating to establishment of land offices in Oregon, was read, and, on motion of Mr. Powers, was laid on the table.

Mr President announced that he had signed the following bills, resolutions and memorials:

H. J. R. No. 1, informing the Governor of Oregon of the organization of the Legislative Assembly.

H. J. R. No. 2, relative to joint rules.

H. J. R. No. 3, " Code Commissioners' report.

H. J. R. No. 4, " expenses of the Rogue River war.

H. J. R. No. 5, " the manner in which the joint Code Committee shall report.

H. J. R. No. 6, relative to mail delivery at Port Umpqua.

H. J. R. No. 8, relative to expenses of Cayuse war.

H. J. R. No. 9, " land titles in Oregon.

H. J. R. No. 11, relative to Mrs. Thurston's memorial to Congress.

H. J. R. No. 12, directing President of the Council to forward copies of memorials and joint resolutions to our delegate in Congress.

H. B. No. 10, to provide for locating the county-seat of Douglass county.

H. B. No. 17, to appoint officers for the county of Tilamook.

H. B. No. 5, to locate a Territorial road from Grand Round to Tilamook river.

H. B. No. 12, to legalize the election of certain persons as justices of the peace in Jackson County.

H. B. No. 13, to define the southern boundary of Lane county.

H. M. No. 2, to P. M. General concerning delivery of the mails at Port Umpqua.

C. B. No. 18, to regulate proceedings to vacate charters and letters patent, and prevent the usurpation of an office or franchise.

C. B. No. 14, an act to change the name of Marysville in Benton Co.

C. B. No. 22, an act to provide for the holding of District and Supreme Courts.

C. B. No. 1, an act to appropriate certain school funds in Polk county.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives to inform you that the House recedes from their amendments Nos. 1, 10, and 16; that they insist upon their amendments Nos. 2, 7, 9, 15 and 18, to C. B. No. 18, relating to crimes and misdemeanors; also that they concur in Council amendments to House amendments Nos. 5 and 12; and that they do not concur in Council amendments to House amendments No. 17; and the bill and amendments are herewith transmitted for the action of the Council.

On motion of Mr. Simpson, Council refused to recede from their disagreement with the House on proposed amendments to C. B. No. 13, relating to crimes and misdemeanors.

Mr. Simpson moved that a Committee of Conference on the part of the Council be appointed to confer with a Committee of the House on the differences between the two Houses in C. B. No. 13, which motion was carried, and Messrs. Simpson, Kelly and Humphrey were appointed the committee.

On motion Council adjourned.

Afternoon Session—2. P. M.

Council met pursuant to adjournment.

H. J. R. No. 10, with the amendments from the Judiciary, Committee was taken from the table.

On motion of Mr. Powers, amendments Nos. 1, 2, 3, 4, 5 and 6, were successively adopted.

On motion of Mr. Powers, the resolution as amended was adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the House has passed the following bills: C. B. No. 25, a bill relating to the writs of mandamus and prohibition, and C. B. No. 26, a bill relating to the writ of *habeas corpus* and proceedings thereon; and they are herewith returned to the Council for enrollment. Also that the House has passed H. B. No. 20, a bill for the relief of G. D. R. Boyd, and the Council is requested to concur; also that he has signed C. B.'s No. 11 and No. 17, and they are herewith transmitted to the Council for your signature; also that the House refuses to concur with the Council in C. B. No. 23, and it is herewith transmitted to the Council in which it originated.

H. B. No. 20, for the relief of G. D. R. Boyd, was read first time and passed to 2d reading.

Mr. President announced that he had signed C. B. No. 11, an

Act for the preservation of oysters, and C. B. No. 17, to regulate actions relating to real property.

Mr. Fulkerson, by leave, introduced C. B. No. 34, to change the name of Grave Creek in Jackson county to Leland Creek, in commemoration of Miss Leland Crowley; which was read a first time. On motion of Mr. Richardson, the rules were suspended and the bill read a 2d time. On motion of Mr. Scott, the rules were further suspended, the bill read a 3d time and passed.

On motion Council adjourned.

FRIDAY, JANUARY 6th, 1854.

Council met pursuant to adjournment.

Present.—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott and President.

Absent.—Mr. Simpson.

After reading of the Journal, Mr. President submitted the petition of Isaac Butler and Tabitha his wife, praying for an act legalizing their marriage.

The petition was read, and on motion of Mr. Powers was referred to the Judiciary Committee. Mr. Powers submitted the petition of Sylvanus Condit and 22 others, praying for a stringent prohibitory liquor law.

On motion of Mr. Kelly, the petition was referred to the Committee of Ways and Means.

Mr. Kelly from the joint Code Committee, reported a bill (C. B. No. 35,) relating to marriage and divorce, which was read a first time and passed to 2d reading; also C. B. No. 36, relating to the granting of licenses to sell spirituous liquors, and to license billiard-tables, ball-alleys, pedlers and shows, which was read first time and passed to 2d reading.

Mr. Humphrey, from the Committee on Incorporations, to whom was referred the resolution of the Council relating to the incorporation of companies by County Commissioners for the purpose of building toll bridges, reported a bill (C. B. No. 37,) which was read a first time and passed to 2d reading.

C. B. No. 32, relative to the support of the poor, was read 2d time, and, on motion of Mr. Fulkerson, referred to Committee of the Whole.

C. B. No. 33, relating to the support of bastards, was read 2d time, and, on motion of Mr. Powers, referred to Committee of the Whole.

H. B. No. 20, for the relief of G. D. R. Boyd, was read 2d time, and, on motion of Mr. Fulkerson, referred to Committee on Claims.

H. B. No. 22, to change the name of Rogue River, was taken up, and, on motion of Mr. Scott, laid on the table.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that H. B. No. 22, a bill in relation to schools and school lands, has passed the House, and it is herewith transmitted to the Council for concurrence.

H. B. No. 22, relating to schools and school lands, was read a first time, and, on motion of Mr. Simpson, the rules were suspended and the bill read a second time. On motion of Mr. Simpson, referred to Committee of the Whole.

Mr. Simpson, from the Committee on Enrolled Bills, by leave, reported C. B. No. 19, an Act concerning the liens of mechanics and other persons truly enrolled.

On motion of Mr. Richardson, Council went into Committee of the Whole, on such business as may be before it; Mr. Phelps in the chair.

After some time the committee rose, reported progress, and asked and obtained leave to sit again.

On motion, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

On motion of Mr. Simpson, Council went into Committee of the Whole, on the business before it; Mr. Phelps in the chair.

After some time the committee rose, reported progress, and asked and obtained leave to sit again.

On motion, Council adjourned.

SATURDAY, January 7, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Kelly, Powers, Simpson, Scott, and Mr. President.

Absent—Messrs. Humphrey and Phelps.

The Journal having been read, Mr. President presented the petition of the President and Trustees of Tualitin Academy, for amendment of their charter. On motion of Mr. Kelly, the petition was referred to Committee on Incorporations.

Mr. Kelly, from the Judiciary Committee, to whom was referred the petition of Isaac Butler and Tabitha his wife, for an Act to legalize their marriage, reported a bill (C. B. No. 38,) "to legalize the marriage of Isaac Butler and Tabitha Butler," which was read a first time, and passed to second reading.

Mr. Kelly, from joint Code Committee, reported a bill (C. B. No. 39,) relating to marks and brands, and to weights and measures, which was read a first time, and passed to second reading;

also a bill (C. B. No. 40,) relating to estrays and to property lost or unclaimed, which was read a first time, and passed to second reading; also a bill (C. B. No. 41,) relating to stallions, which was read a first time, and passed to second reading.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 30, "relating to elections, and the mode of filling vacancies in office," truly engrossed.

C. B. 35, relating to marriage and divorce, was read a second time. On motion of Mr. Kelly, the words "Clerk of District Court," wherever they occur in the bill, were struck out, and the words "Recorder of County" inserted.

On motion of Mr. Simpson, the following amendments were adopted:—Strike out of 4th section all after the word "by," and insert "minister of the gospel or such other person as may be authorized by any church."

On motion of Mr. Kelly, the following amendments were adopted:—Add to sec. 8, page 239, the words "the certificate may be in the following form:—

"Territory of Oregon, }
County of ——— }

"This is to certify that the undersigned, a justice of the peace of said county, [minister of the gospel, or judge, &c., as the case may be] did on the day of A.D., 18 join in lawful wedlock A. B. and C. D., with their mutual consent, in presence of E. F. and G. H., witnesses,

"L. N., Justice of the Peace."

On motion of Mr. Simpson, the words "one month" in sec. 8 were struck out, and the words "three months" inserted.

On motion of Mr. Simpson, the bill was referred to a select committee of three. Messrs. Simpson, Kelly, and Fulkerson were appointed the committee.

C. B. 36, relating to the granting of licenses to sell spirituous liquors, and the licensing of billiard tables, ball-alleys, pedlers, and shows, was read a second time. On motion of Mr. Kelly, referred to Committee of the Whole.

C. B. No. 37, "to confer the power on County Commissioners to incorporate companies to build toll-bridges, and take toll during a period not exceeding ten years," was read a second time, and, on motion of Mr. Simpson, referred to Committee of the Whole.

Mr. Powers, by leave, introduced a resolution, (C. J. R. No. 7,) relative to the opening of a military-road from Astoria to Salem, which was adopted.

On motion, Council adjourned till Monday morning, 9 o'clock.

MONDAY, JANUARY 9, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott and President.

Absent—Mr. Simpson.

Journal read.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. No. 31, relating to the qualifications of jurors and the mode of selecting them, truly engrossed.

Mr. Kelly, from the joint Code Committee, reported a bill, C. B. No. 42, relating to fences and fence-viewers, which was read a first time and passed to second reading; also a bill (C. B. No. 43,) to regulate the interest on money, which was read a first time and passed to second reading.

Mr. Humphrey, from the Committee on Incorporations, to whom was referred the petition of the President and trustees of the Tualitin Academy, reported by bill (C. B. 44,) in accordance with the prayer of the petition. The bill was read a first time and passed to second reading.

C. B. 39, relating to marks and brands, and to weights and measures, was read a second time. On motion of Mr. Kelly, the following amendments were adopted:

Strike out sec. 2, chap. 1, page 248, and insert:

"SEC. 2. No two persons residing within seven miles of each other, shall use the same mark or brand in this territory, but in such case the person having the oldest recorded mark shall have the preference; but nothing herein contained shall prevent the parties from agreeing which of them shall change his mark or brand; and any person offending against the provisions of this section, shall, on conviction before a justice of the peace of the proper county, be fined in any sum not exceeding five dollars.

On motion of Mr. Powers,

The bill was ordered to be engrossed and read a third time to-morrow.

C. B. 40, relating to estrays and to property lost or unclaimed, was read a second time. On motion of Mr. Fulkerson, referred to a select committee of three. Messrs. Fulkerson, Richardson, and Powers were appointed the committee.

C. B. 41, relating to stallions, was read a second time. On motion of Mr. Richardson, the words "fourteen and a half hands high," in sec. 2, chap. 1, 20th line, were stricken out.

On motion of Mr. Kelly, the following amendments were adopted:

Amend sec. 2, page 254, by striking out the words "that is known to," in second line, and insert in their stead, "knowing that said horse is kept, or intended to be kept." After the word

"mares," insert "and any person so offending shall be liable to the owner for all damages, to be recovered in any court having proper jurisdiction thereof."

Mr. Richardson offered the following amendment, which was adopted: After the word "owner," second line, sec. 1, insert, "within the months of April, May, June, July, September and October;" also after the word "horse," add the words "jackass or mule."

On motion of Mr. Richardson, sec. 3 was struck out.

On motion of Mr. Scott, the words "or jack," was added after the word "horse," in sec. 2, second line.

On motion of Mr. Phelps, the following amendment was adopted:

"SEC. 4. Horses commonly called "Ridgelands," shall be included in the provisions of the 3d section of this act."

On motion of Mr. Richardson, the word "or jack," was added after the word "horse," in 4th sec., second line.

On motion of Mr. Richardson, the bill was ordered to be engrossed and read a third time to-morrow.

C. B 38, to legalize the marriage of Isaac Butler and Tabitha Butler, was read a second time.

Mr. Fulkerson moved to refer to the Committee of the Whole, which motion did not prevail.

On motion of Mr. Fulkerson, re-committed to the Committee on the Judiciary, with instructions to amend the bill by inserting a clause divorcing Isaac Butler from his first wife, Gerusha Butler.

C. B. 31, relating to the qualifications of jurors and mode of selecting them, was read a third time and passed.

C. B. 30, relating to elections and manner of filling vacancies in office, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that the accompanying bills have passed the House: C. B. No. 34 and H. B. No. 15, to authorise the establishment of a poor-house; also H. J. R. No. 18; and the Council is requested to concur.

H. B. 15, to establish a poor-house, was read a first time and passed to second reading.

H. J. R. 18, relating to a joint convention of the two Houses, was read. On motion of Mr. Richardson, the word "12th" was stricken out, and the word "19th" was inserted. The resolution as amended was adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that the House has passed H. B. 24, to locate a territorial road from Salem, Marion county, to Philip Foster's, Clackamas county; H. B. 29, a bill to compensate prosecuting

attorneys *pro tem.*; and H. J. R. 17; and they are herewith transmitted to the Council for concurrence; also that they have passed C. B. 28, and it is herewith sent to the Council for enrollment; also to inform you that the House concurs in amendments Nos. 1, 2 and 5 of the Council to H. J. R. No. 10; and that it does not concur in Council amendments 3, 4 and 6 to said resolution.

H. J. R. 17, asking of Congress a donation of land, for building a railroad, was read and adopted.

H. B. 24, to locate a territorial road from Salem to Philip Foster's, was read a first time, and passed to second reading.

H. B. 29, to compensate prosecuting attorneys *pro tem*, was read first time and passed to second reading.

H. J. R. 10, relative to a more correct mail delivery, having been returned from the House with notice that they did not concur in Council amendments, Nos. 3, 4 and 6.

Mr. Powers moved to indefinitely postpone the resolution, pending which motion,

The Council adjourned.

AFTERNOON SESSION.—2 P. M.

H. J. R. No. 10, relative to a more correct mail delivery, being under consideration, at the time of adjournment in the forenoon,

Mr. Powers, withdrew his motion to indefinitely postpone the bill, and moved to insist upon Council amendments, Nos. 3, 4 and 6, which motion prevailed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that he has signed the accompanying bills: C. B. 19, H. B. 11, and H. J. R. 14; also, that H. B. 28, a bill to create and organize Wasco county, and H. B. 32, to locate a territorial road from Estus' to Myrtle Creek, and H. J. R. 16, relative to the territorial library, have passed the House, and they are herewith transmitted to the Council for concurrence; also, that C. B. 29, has passed the House, and it is returned to the Council for enrollment; also, that the House do not concur in the amendment of the Council, to H. J. R. 14, relative to extra mail service, between New York and Oregon; also, that the House has passed C. B. 21, 'An Act to regulate proceedings in actions at law, in the District and Supreme Courts,' with the accompanying amendments, in which the Council is requested to concur; also, that they have passed, H. B. 36, 'An Act to extend the time for collecting taxes in Linn county;' which is herewith transmitted."

H. B. 28, to create and organize the county of Wasco, was read a first time, and passed to second reading.

H. B. 32, to locate a territorial road from Estus' to Myrtle Creek, was read a first time, and passed to second reading.

H. J. R. 14, relative to an increase of the territorial library, was read, and on motion of Mr. Kelly, referred to a select committee of three. Messrs. Kelly, Phelps and Simpson, were appointed the committee.

Mr. President announced that he had signed the following bills and resolutions:

C. B. 19, an Act concerning the liens of mechanics and other persons.

H. B. 11, an Act to incorporate the Umpqua River Navigation and Manufacturing Company.

H. J. R. 13, relative to examination of the Penitentiary.

H. J. R. 14, relative to extra mail service, having been returned from the House, with notice that the House refuses to concur in Council amendments to the same.

Mr. Kelly, moved that the Council insist upon their amendment, which motion prevailed.

C. B. 21, having been returned from the House, with amendments.

On motion of Mr. Fulkerson, the first amendment of the House was concurred in.

Mr. Kelly moved to concur in House amendment, No. 2, which motion was lost.

H. B. 36, to provide for the collection of taxes in Linn county, was read a first time, and passed to second reading.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed, by the Speaker of the House of Representatives, to inform you that the accompanying bills, H. B. 26, 'to establish Union Academy,' and H. B. 33, 'to provide for the public printing and distribution of the laws and journals,' have passed the House; also, that the House concurs in C. J. R. No. 7, relative to a military road from Astoria to Salem; also, that they have passed C. B. 24, with the accompanying amendments, in which the Council is requested to concur."

H. B. 26, to establish Union Academy, was read a first time, and passed to second reading.

H. B. 33, to provide for the public printing and distribution of the laws and journals, was read a first time, and passed to second reading.

H. B. 24, to incorporate the Santiam River Bridge Company, having been returned from the House with amendments, the amendments were, on motion, successively adopted.

H. B. 20, for the relief of G. D. R. Boyd, having been reported back from the Committee of Ways and Means, to whom it had been referred, without amendment, was read a third time and passed.

Mr. Kelly, from the Judiciary Committee, to whom was re-

ferred C. B. 38, a bill to legalize the marriage of Isaac Butler and Tabitha Butler, reported it back with the following amendment, which was adopted: Add after the enacting clause, "That the marriage heretofore solemnized between Isaac Butler and Gerusha Fields, in the year 1842, is hereby dissolved."

On motion of Mr. Simpson, the bill was ordered to be engrossed and read a third time to-morrow.

On motion of Mr. Powers, Council resolved itself into Committee of the Whole, to consider such business as may be before it; Mr. Powers in the chair. After some time the committee rose, and through their chairman, reported back C. B. 36, a bill to license the sale of spirituous liquors, and to license billiard-tables, ball-alleys, pedlers and shows, with the following amendment:

Strike out the present title, and insert instead, "An Act to tax the sale of spirituous liquors, and to tax billiard-tables, ball-alleys, pedlers and shows."

Mr. Kelly moved the adoption of the amendment of the committee, which motion was lost.

On motion, Council adjourned.

TUESDAY, JANUARY 10th, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Simpson, Scott, and Mr. President.

Absent—Mr. Richardson.

Journal was read and approved.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 39, relating to marks and brands, and to weights and measures, and C. B. 41, relating to stallions, truly engrossed.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills truly enrolled:

C. B. 25, an Act relating to writs of mandamus and prohibition.

C. B. 26, an Act relating to *habeas corpus* and proceedings thereon.

C. B. 34, an Act to change the name of Grave Creek.

C. J. R. 7, relating to a military road from Astoria to Salem.

On motion of Mr. Phelps, the Committee of the Whole were discharged from the further consideration of C. B. 37, conferring the power on County Commissioners, to incorporate toll-bridge companies.

On motion of Mr. Phelps, the bill was re-committed to the Committee on Incorporations.

H. B. 32, to locate a territorial road from Estus' to Myrtle Creek, was read a second time. On motion of Mr. Scott, the rules were suspended, the bill read a third time, and passed.

H. B. 33, to provide for the public printing, and the distribution of the laws and journals, was read a second time. On motion of Mr. Simpson, the further consideration of the bill was postponed till to-morrow.

C. B. 44, to establish an institution of learning in Washington county, was read a second time. On motion of Mr. Phelps, the bill was referred to a select committee of three, Messrs. Phelps, Humphrey, and Powers, were appointed the committee.

H. B. 36, to extend the time for collecting the taxes of Linn county, was read a second time. On motion of Mr. Kelly, the rules were suspended, the bill read a third time, and passed.

H. B. 28, to create and organize the county of Wasco, was read a second time, and passed to third reading to-morrow.

H. B. 15, to establish a poor-house, was read a second time, and, on motion of Mr. Powers, referred to the Committee of the Whole.

H. B. 24, to locate a territorial road from Salem to Philip Foster's, was read a second time.

On motion of Mr. Kelly, the rules were suspended, the bill read a third time, and passed.

H. B. 29, to compensate prosecuting attorneys, *pro tem.*, was read.

Mr. Fulkerson moved that the bill be referred to the Committee on the Judiciary, which motion did not prevail. On motion, ordered that the bill be read a third time to-morrow.

C. B. 43, to regulate the interest on money, was read a second time. On motion it was ordered that the bill be read a third time to-morrow.

C. B. 42, relating to fences and fence-viewers, was read a second time, and on motion of Mr. Fulkerson, referred to the Committee of the Whole.

C. B. 39, relating to marks and brands, and to weights and measures, was read a third time and passed.

C. B. 41, relating to stallions, was read a third time, and passed.

C. B. 36, relating to the granting of licenses to sell spirituous liquors, and to license billiard-tables, ball-alleys, pedlers and shows, was taken up.

Mr. Richardson moved to strike out the first fourteen sections.

Mr. Fulkerson moved to amend the amendment, by striking out the first five sections. The question being on the adoption of the amendment to the amendment, Mr. Simpson demanded the yeas and nays.

Those who voted in the affirmative are, Messrs. Fulkerson, Humphrey, Powers, and Richardson—4.

Those who voted in the negative are, Messrs. Kelly, Phelps, Simpson, Scott, and President—5.

So the Council refused to adopt the amendment moved to the amendment.

Mr. Phelps moved to amend the amendment by excepting the 6th section, which was accepted by the mover. Mr. Simpson objecting to the amendment to the amendment, and the question being on its adoption, Mr. Fulkerson called for the yeas and nays.

Those who voted in the affirmative are, Messrs. Fulkerson, Humphrey, Phelps, Powers, and Richardson—5.

Those who voted in the negative are, Messrs. Kelly, Simpson, Scott and President—4.

So the Council adopted the amendment to the amendment.

The question recurring on the adoption of the amended amendment, Mr. Kelly called for the yeas and nays.

Those who voted in the affirmative are, Messrs. Fulkerson, Humphrey, Phelps, Powers, and Richardson—5.

Those who voted in the negative are, Messrs. Kelly, Simpson, Scott, and President—4.

So the amendment as amended was adopted.

Mr. Richardson moved to strike out all after the 16th section, which motion prevailed.

Mr. Kelly moved to strike out the 15th and 16th sections, which motion was lost.

On motion of Mr. Richardson, the bill was referred to a select committee of three. Messrs Richardson, Fulkerson, and Simpson were appointed the committee.

Mr. Simpson, from the Committee of Conference on C. B. 13, relating to crimes and misdemeanors, made the following report:

"The Committee of Conference, appointed on the part of the Council, to confer with like Committee on the part of the House, herewith beg leave to report that they have conferred with said committee, and the following is the result:

"1st, That the Council concur in House amendment No. 2, on page 57, sec. 14. Chap. 3d, strike out 14th sec.

"2d, That sec. 31, chap. 4, page 64, be amended by striking out the words, 'by imprisonment in the penitentiary not more than four years nor less than one year or,' and insert, 'by fine not exceeding one thousand, nor less than fifty dollars, and the party committing such fraud shall be liable to the party defrauded in double damages.'

"3d, That the Council concur in House amendment No. 15; strike out sec. 19 and 20, and words 'fifth' and 'nineteenth,' in sec. 22, page 80.

"4th, That the Council concur in House amendment No. 9, page 74, sec. 7, chap. 8.

"5th, That the Council concur with House amendment No. 18.
All of which is respectfully submitted,

B. SIMPSON,
Chairman of Com. on the part of Council."

"Your Committee of Conference appointed on the part of the Council, to act with like Committee on the part of the House, have conferred upon the subjects referred to them; and unanimously agreed to report, as per majority report, on all the amendments except the 15th, and upon that portion,

"We, the undersigned, ask leave to make a minority report, believing, as we do, that the social happiness of the people of Oregon greatly depends upon the observance of the Sabbath day as a day of rest and religious worship. We would, therefore, recommend that the Council do not agree to House amendment No. 15.

"All of which is herewith respectfully submitted.

B. SIMPSON.
A. L. HUMPHREY."

On motion of Mr. Simpson, the further consideration of the report was postponed till to-morrow.

On motion, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed, by the Speaker of the House of Representatives, to inform you that the accompanying bills—H. B. No. 31, to establish Corvallis Seminary; C. B. 31, an Act relating to the qualifications of jurors, and the mode of selecting them; also that the House concurs in Council amendment to H. B. No. 8, to create and organize Coos county, with the accompanying amendment to Council amendment, and the Council is requested to concur."

H. B. 31, to establish Corvallis Seminary, was read a first time and passed to second reading.

H. B. 30, to create and organize Coos county, having been returned from the House with an amendment to Council amendment,

On motion of Mr. Simpson, Council concurred in House amendment.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the House has passed the accompanying bill, H. B. No. 30, relating to the election of Justices of the Peace and Constables, and to proceed-

ings in Justices' Courts, and that the House does not insist upon their second amendment to C. B. No. 21."

H. B. 30, relating to the election of justices of the peace and constables and proceedings in Justices' Courts, was read a first time and passed to second reading.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the accompanying bills: C. Bills Nos. 25, 26 and 34, and C. J. R. No. 7, and they are transmitted to the Council for your signature.

Mr. President announced that he had signed the following bills and resolution:

C. B. 26, an Act relating to *habeas corpus* and proceedings therein.

C. B. 25, an Act relating to the writs of mandamus and prohibition.

C. B. 34, an Act to change the name of Grave Creek.

C. J. R. No. 7, relative to military road from Astoria to Salem.

C. B. 27, to define the southern boundary of Umpqua county, was taken up, and, on motion of Mr. Scott, laid on the table.

On motion of Mr. Simpson, Council resolved itself into Committee of the Whole, on the business before it; Mr. Powers in the chair.

After some time the Committee rose, and, through their Chairman, reported back the following bills with amendments:

C. B. 33, relating to the support of bastards, with the following amendment: Strike out all after the enacting clause.

H. B. 22, relating to common schools and school-lands, with the following amendments:

1. Insert enacting clause as follows: "Be it enacted by the Legislative Assembly of the Territory of Oregon."

2d Amendment. After the words "United States," sec. 1, chap. 1, insert "and all bequests made by any person or persons to the Territory."

3d Amendment. Sec. 2, chap. 1, Strike out the words "two mills," and insert "one mill."

4th Amendment. Sec, 10, chap. 2, After the word "lands," 8th line, insert "by cutting or carrying off timber or other material from said land, he shall immediately proceed against such trespasser as provided by law in other cases, and"

5th Amendment. Sec. 4, chap. 3, Strike out the words "term of."

6th Amendment. Section 14, chapter 3, strike out the words "three months," and insert "one month."

C. B. 42, relating to fences and fence-viewers, reported back without amendment.

On motion of Mr. Simpson, the amendment of the Committee

of the Whole, to C. B. 33, relating to the support of bastards, was adopted.

On motion of Mr. Richardson, the amendments of the Committee of the Whole to H. B. 22, relating to Common Schools, were adopted.

On motion of Mr. Phelps, the bill was referred to a select committee of three. Messrs. Phelps, Fulkerson and Scott, were appointed the Committee.

C. B. 42, relating to fences and fence-viewers, was, on motion of Mr. Richardson, referred to a select committee of three. Messrs. Richardson, Humphrey and Simpson, were appointed the committee.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House, to inform you that the House has passed C. B. 5, 'to locate a territorial road from Salem, *via.* Doak's Ferry to Lafayette,' with the accompanying amendments, in which the Council is requested to concur.

On motion of Mr. Simpson, H. amendment to C. B. 5, to locate a territorial road from Salem, *via.* Doak's Ferry to Lafayette, was adopted.

Mr. Scott, by leave, introduced a bill (C. B. 45,) for the protection of school lands, which was read a first time, and passed to second reading.

Mr. Simpson moved to reconsider the vote postponing the consideration of the report of Conference Committee, and that the report be taken up now, which motion prevailing, Mr. Kelly moved to adopt the report of Committee, pending which motion, Council adjourned.

WEDNESDAY, JANUARY 11th, 1854.

Council met pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Simpson presented the petition of William C. Johnson, and five hundred others, for a territorial road from Clackamas Bridge to intersect territorial road to Des Shutes River, which, on motion of Mr. Simpson, was referred to Committee on Roads and Highways.

Mr. Humphrey, from the Committee on Incorporations, to whom was re-committed C. B. 37, with instructions to report the same in new draft, reported a new bill, C. B. 46, which was read a first time, and passed to second reading.

Mr. Kelly, from the Committee on Engrossed Bills, reported

C. B. 38, to legalise the marriage of Isaac Butler and Tabitha Butler, truly engrossed.

Mr. Kelly, from the Select Committee, to whom was referred H. J. R. 16, made the following report, which was adopted:

The Select Committee to whom was referred H. J. R. 16, beg leave to report the same back, with the following amendments:

1. Amend by striking out the word "three," in 4th line, and inserting "five."

2. Amend by adding to the end of section, the following: "out of any money heretofore appropriated by Congress, to pay the Legislative expenses of said Territory, and remaining unexpended, and that the Governor, Secretary, and Judges of the Supreme Court of the said Territory, or a majority of them, be authorised to select the books."

Mr. Phelps, from the Select Committee, to whom was referred H. B. 26, to establish Union Academy, made the following report, which was adopted.

The Select Committee, to whom was referred H. B. 26, a bill to establish Union Academy, report that they have examined said bill, and report the same back to the Council, with the accompanying amendments, which they respectfully recommend for adoption:

Amendment 1. In sec. 2, line 4, strike out the words "retain and enjoy," and insert "retain and hold."

Amendment 2. In section 5, line 2, strike out "annually in the month of December," and insert "at the end of each academical year."

Amendment 3. Section 6, line 4, after the word "amend," insert "or repeal."

H. B. 30, relating to the election of Justices of the Peace and Constables, and to proceedings in Justices' Courts, was read a second time, and, on motion, ordered to be read a third time tomorrow.

H. B. 31, to establish Corvallis Seminary, was read a second time, and, on motion of Mr. Phelps, referred to a select committee of three. Messrs. Phelps, Powers and Simpson, were appointed the committee.

Mr. Fulkerson, by leave, introduced a bill, C. B. 47, to prevent Sabbath-breaking, which was read a first time, and, on motion of Mr. Simpson, the rules were suspended and the bill was read a second time.

On motion of Mr. Fulkerson, referred to a select committee of three. Messrs. Simpson, Powers and Fulkerson, were appointed the committee.

C. B 45, for the protection of school lands, was read a second time, and, on motion of Mr. Simpson, referred to the Committee of the Whole.

H. B. 26, to establish Union Academy, was read a third time, and passed.

H. B. 29, to compensate prosecuting attorneys *pro tem*, was read a third time and passed.

C. B. 43, to regulate the interest on money, was read a third time and passed.

H. B. 28, to create and organize Wasco county, was read a third time and passed.

C. B. 38, to legalise the marriage of Isaac Butler and Tabitha Butler, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House, to inform you that the accompanying resolution, H. J. R. 19, relative to Empire City on Coos Bay, has passed the House, and the Council is requested to concur; also, that they have passed C. B. 41, with the accompanying amendments, in which the Council is requested to concur."

H. J. R. 19, relative to Empire City, was read, and, on motion of Mr. Simpson, adopted.

C. B. 41, relating to stallions, having been returned from the House with amendments on motion, Council concurred in amendments 1 and 2, and refused to concur in amendment 3.

H. B. 33, to provide for the public printing and the distribution of the laws and journals, was read a third time and passed.

On motion of Mr. Simpson,

Council resolved itself into Committee of the Whole on business before it, Mr. Scott in the chair. After some time the committee rose, and through their Chairman reported back,

H. B. 15, to establish a poor-house, without amendments; also,

C. B. 45, for the protection of school lands, with the following amendments:

Amendment 1. Add after the word "section," in 4th line, sec. 1, the words "or such lands as may be selected in lieu thereof."

Amendment 2. Strike out the words "they shall," after "knowledge," and insert the word "to."

Amendment 3. Insert after the word "it," 3rd line, the word "and."

Amendment 4. Strike out after the word "the," 4th line, sec. 2, the words "name of the trustees," and insert "official name of the Board of County Commissioners of the county of."

On motion of Mr. Simpson, the amendments of the committee were adopted.

On motion of Mr. Kelly, the bill was ordered to be engrossed, and read a third time to-morrow.

H. B. 15, reported from the committee without amendment, was, on motion of Mr. Powers, laid on the table.

The report of the Committee of Conference on C. B. 13, relat-

ing to crimes and misdemeanors, was taken up, and, on motion of Mr. Powers, laid on the table.

On motion, Council adjourned.

AFTERNOON SESSION.—2 P. M.

Council met pursuant to adjournment.

Mr. Simpson, from the Select Committee, to whom was referred C. B. 47, to prevent Sabbath breaking, reported the same corrected.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that the House has concurred in Council amendment to H. J. R. 18, relative to a joint convention of both houses."

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed, by the Speaker of the House, to inform you that H. B. 34, to change the name of Albany, and H. J. R. 20, have passed the House, and are herewith transmitted to the Council for concurrence; also that Council amendments to H. B. 26, to establish Union Academy, have been concurred in; also that the House insists upon their amendment 3, to C. B. 41, relating to stallions; also that the House concurs in Council amendments to H. J. R. 16, relative to an increase of the territorial library."

H. J. R. 20, relative to apportionment of the Legislative Assembly, was read, and, on motion of Mr. Fulkerson, laid on the table till to-morrow.

H. B. 34, to change the name of Albany, was read a first time, and, on motion of Mr. Simpson, the rules were suspended, and the bill read a second time. Mr. Kelly moved to lay on the table, which motion did not prevail.

On motion, ordered to be read a third time to-morrow.

H. B. 41, relating to stallions, having been returned from the House, with notice that they insist on third House amendment to the bill, Mr. Simpson moved that the Council recede from their non-concurrence, which motion did not prevail.

On motion of Mr. Simpson, a Committee of Conference was ordered to be appointed, to confer with a like committee on the part of the House, on the difference between the two Houses, on C. B. 41, relating to stallions. Messrs. Simpson, Kelly, and Richardson, were appointed the Committee on the part of the Council.

On motion, Council adjourned.

THURSDAY, JANUARY 12th, 1854.

Council met pursuant to adjournment.

Present—All the members.

The Journal was read and approved.

Mr. Phelps, from the Select Committee, to whom was referred H. B. No. 22, relating to common schools, reported as follows:

The Select Committee to whom was referred H. B. 22, beg leave to report that they have had the same under consideration, and agreed upon the accompanying amendments, which they respectfully recommend for adoption by the Council.

1. Section 10, chap. 2, strike out all after the word "trespass," in the tenth line.

2. Section 11, third line, strike out all after the word "conviction," and insert, "shall be fined in double damages, one half to be paid into the irreducible fund mentioned in the first section of this Act, and the other half, together with the costs of suit, to be paid into the County Treasury for the use of the county."

3. Insert a new section, as follows:

SEC. 12. It shall be the duty of the County Superintendent, to ascertain what portions of sections numbered sixteen and thirty-six in each township in his county, are claimed by settlers occupying the same, before the survey was made. Upon ascertaining the amount thus claimed in any township, he shall proceed without unnecessary delay, to select other lands in lieu thereof, and make report to the Surveyor General of such selection, which report shall describe the lands so selected by numbers; it shall also state what townships contain the occupied lands these were selected in lieu of. It shall also be his duty to give public notice of such selection, by posting up notices in three public places in his county, one of which shall be at the county seat, and the others in the vicinity of the lands selected, describing said lands by their numbers, and such other descriptions as he may deem expedient.

4. In chap. 3, sec. 3, strike out all after the word, "directors," in the third line, and insert, "who shall hold their office till the next annual meeting, and until their successors are elected and qualified."

5. Amend by striking out the 11th sec. in chap. 3.

6. In sec. 5, after the period at the end of the word "district," in line four, strike out the words "this oath," and insert, "The chairman of such meeting shall be authorized to administer this oath, which."

7. In the last line of sec. 9, strike out the words "one year from," and insert "until."

8. Strike out the 4th chapter of the bill.

9. Strike out sections 7, 8 and 9, of chap. 5, of the bill.

On motion of Mr. Kelly, 2d amendment of the committee was amended, by striking out the words "together with costs of suit."

On motion of Mr. Simpson, the report of the committee was adopted.

Mr. Powers offered the following amendment, which was adopted: Strike out all after the word "decide," in sixth line, sec. 8, chap. 3, and insert, "whether such refractory scholar shall be compelled, by suitable punishment, to conform to the rules of school, or be expelled from."

The bill, as amended, was read a third time and passed.

Mr. Simpson, from the Committee on Enrolled Bills, by leave, reported the following bills truly enrolled:

C. B. 28, an Act for the limitation of actions.

C. B. 24, an Act to incorporate the Santiam River Bridge Company.

C. B. 31, an Act regulating the qualifications of jurors, and the mode of selecting them.

C. B. 29, an Act relating to actions on official securities for fines and forfeitures, and to actions by and against public officers and public bodies.

Mr. Kelly, from Committee on Engrossed Bills, by leave, reported C. B. 45, "for the protection of school lands," truly engrossed.

Mr. Richardson, from the Select Committee, to whom was referred C. B. 42, relating to fences and fence-viewers, reported, by new bill, C. B. 48, which was read a first time, and passed to second reading.

H. B. 30, relating to the election of Justices of the Peace and Constables, and proceedings in Justices' Courts, was read a third time and passed.

C. B. 45, "for the protection of school lands," was read a third time and passed.

H. B. 34, "to change the name of Albany," was read a third time and passed.

C. B 47, "to prevent Sabbath-breaking," was read a third time. Mr. Simpson called for the yeas and nays. Upon the question, shall the bill pass?

Those who voted in the affirmative are Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Simpson, Scott and President—9.

Voting in the negative—none.

So the bill was passed.

Mr. Richardson, from the Select Committee, to whom was referred C. B. 36, "relating to the granting of licenses to sell spirituous liquors, &c.," made the following report, which was adopted:

Your committee, to whom was referred C. B. 36, "relating to the granting of licenses to sell liquor, &c.," would recommend that it be so amended as to make it discretionary with the county commissioners, whether they will grant licenses or not in their respective counties, or permit the same to be sold without license.

On motion of Mr. Simpson, the bill was referred to the Committee on the Judiciary, with instructions to amend in accordance with the recommendation of the select committee.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you, that the House has passed the accompanying bills:

"H. B. 27, 'a bill to establish Columbia County.'

"H. B. 35, 'amending an Act to incorporate the Willamette Falls Canal Milling and Transportation Company;' also,

"C. B. 30, 'an Act relating to elections, &c.,' and it is herewith sent to the House in which it originated, for enrollment."

H. B. 27, "to create and organize Columbia County," was read a first time, and passed to second reading.

H. B. 35, "to amend an Act entitled an Act to incorporate the Willamette Falls Canal Milling and Transportation Company," was read a first time, and passed to second reading.

H. J. R. 20, "relating to apportionment of the Legislative Assembly," was taken from the table, and, on motion of Mr. Powers, its further consideration was postponed till January 23d.

On motion, Council adjourned.

AFTERNOON SESSION.—2 P. M.

Council met pursuant to adjournment.

Mr. Kelly, from the Judiciary Committee, to whom was referred C. B. 36, "relating to the granting of licenses to sell spirituous liquors, &c.," made the following report, which was adopted:

The Judiciary Committee, to whom was referred C. B. No. 36, "relating to the granting of licenses, &c," with instructions to report a bill "making it discretionary with the Board of Commissioners to say whether they will grant licenses, &c.," beg leave to report back the bill, as it was originally introduced into the Council, with the following amendment:

Strike out section 1, and insert in its stead the following:

"SEC. 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon*, that every person shall be permitted to sell spirituous liquors in this territory, without obtaining a license therefor, unless the Board of Commissioners of the respective counties shall otherwise determine; and if such Board of Commissioners shall determine that no person shall sell without first obtaining a li-

cense, they shall grant the same, in pursuance of the provisions of this chapter, within their respective counties."

Mr. Powers offered the following amendment, which was rejected by the Council:

Strike out the first section, and insert the following: "No person shall be permitted to sell spirituous liquors in this territory, without having obtained a license from the Board of Commissioners of the proper county for that purpose; and said board shall determine whether or not such license shall be granted."

Mr. Scott offered the following amendment, which was rejected: "Nothing in this Act shall be so construed as to prohibit any person or persons from selling any article raised or manufactured in this territory."

Mr. Kelly offered the following amendment, which was adopted:—

Section 7, third line, add, after the word "chapter," the words, "if such license be required by the Board of County Commissioners."

Mr. Richardson moved to strike out the word "ten," in section 15, chapter 1, and insert "fifty," which motion was lost.

On motion of Mr. Kelly, the bill was ordered to be engrossed and read a third time to-morrow.

Mr. Simpson, from the Committee of Conference on C. B. 41, "relating to stallions," submitted the following report, which was adopted:

The Committee of Conference, appointed on the part of the Council, to confer with a like Committee on the part of the House, to whom was referred third amendment to C. B. 41, have conferred, and the result is as follows:

Amend third section of said bill, by retaining the word "horse," in first line, and insert "mule or jackass." In other portions of said amendments we agree with the House.

Mr. Simpson from the Select Committee, to whom was referred C. B. 35, relating to marriage and divorce, made the following report, which was adopted:

The Committee to whom was referred a bill relating to marriage and divorce, beg leave to make the following report:

1. Strike out the 11th section and insert, "if any person shall wilfully make any false certificate of any marriage or pretended marriage, he shall forfeit for every such offence a sum not exceeding five hundred dollars, or may be imprisoned in the county jail not exceeding one year.

2. Strike out of section 12, all after the word "shall," in third line, and insert "on conviction be fined in any sum not more than three hundred dollars."

Mr. Kelly offered the following amendment, which was adopted:

Amend section 5, page 241, by adding after the 6th subdivision the following:

"7. Voluntary neglect of the husband to provide the wife with a home and the common necessaries of life for the space of one year."

The bill as amended was ordered to be engrossed, and read a third time to morrow.

On motion of Mr. Scott, H. B. 22, to change the name of Rogue River, was taken from the table.

Mr. Fulkerson moved to strike out the word "ore," wherever it occurs in the bill, and insert "gold." The motion was agreed to.

On motion of Mr. Fulkerson, the rules were suspended, the bill was read a third time and passed.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed to inform you that C. B. 39, an act relating to marks and brands, and to weights and measures, has passed the House with the accompanying amendments, in which the Council is requested to concur; also to inform you that Messrs. Gilliand, Goff and Shuck, have been appointed a Committee of Conference, on the part of the House, to act with the Council Committee, relative to the disagreement to C. B. 41, relating to stallions."

C. B. 39, relating to marks and brands, and to weights and measures, was returned from the House with sundry amendments, which, on motion, were adopted.

On motion, Council adjourned.

FRIDAY, JANUARY 13TH, 1854.

Council met pursuant to adjournment.

Present—all the members.

Journal read.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 35, relating to marriage and divorce, truly engrossed; also,

C. B. 36, relating to the granting of licenses to sell spirituous liquors, and to license billiard-tables, ball-alleys, pedlers and shows.

Mr. Fulkerson, from the Select Committee, to whom was referred C. B. 40, relating to estrays, reported back the bill with the accompanying amendments:

1. Add after the word "craft," the words "raft of lumber or logs."

2. Strike out in second line, "or any stray animal."

3. In fourth line strike out the words "and take such stray away."

4. Third section, second line, insert "thirty," instead of "ten."
5. In fourth line, strike out "five," and insert "fifteen."
6. In section 7th, eleventh line, strike out the words "one half of."
7. Strike out all in twelfth line after the word "county," and insert "for the use of common schools."
8. In section 8th, at the end of second line, add "knowing the same to have been taken up as a stray."
9. In section 9th add at the end of section, "for the use of common schools."

On motion, the amendments were adopted.

On motion of Mr. Kelly, the word "ten" in 3d line, section 9, chapter 1, was struck out, and the word "fifteen" inserted.

Mr. Powers offered the following amendment, which was adopted: Add to section 9th as follows: "Provided, that if the owner of the property sold or his legal representatives shall, within one year after such money shall have been deposited in the County Treasury, furnish satisfactory evidence to the County Commissioners of the ownership of such property, he or they shall be entitled to receive the amount so deposited in the County Treasury."

On motion of Mr. Kelly, the word "ten" in section 11, was struck out, and "fifteen" inserted.

H. B. 35, to amend an Act, entitled an Act to incorporate the Willamette Falls Canal, Milling and Transportation Company, was read a second time, and, on motion of Mr. Fulkerson, referred to Committee of the Whole.

C. B. 46, to confer the power on County Commissioners to incorporate companies in their respective counties for building toll-bridges, was read a second time.

On motion of Mr. Humphrey, the rules were suspended, the bill was considered engrossed, read a third time and passed.

H. B. 27, to create and organize the County of Columbia, was read a second time. On motion of Mr. Kelly, referred to the Committee on Counties.

C. B. 35, relating to marriage and divorce, was read a third time and passed.

C. B. 36, relating to the granting of licenses to sell spirituous liquors, and the licensing of billiard-tables, ball-alleys, pedlers and shows, was read a third time.

Mr. Powers moved to re-commit the bill to the Committee on the Judiciary, which motion was lost.

The question being, shall the bill pass? Mr. Phelps called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Humphrey, Kelly, Simpson, Scott and President—6.

Those who voted in the negative are Messrs. Phelps, Powers and Richardson—3.

So the bill was passed.

A message from the House by their Clerk, Mr. M'Cracken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the accompanying bills, viz: C. bills 24, 28, 31 and 29, and H. B. 20, and they are sent to the Council for your signature; also that the House has passed H. B. 40, 'to locate a territorial road from Corvallis to Estus', and H. B. 52, 'to establish a territorial road,' and they are herewith transmitted to the Council for concurrence."

H. B. 52, to establish a territorial road, was read a first time and passed to second reading.

H. B. 40, 'to establish a territorial road from Corvallis to Estus,' was read a first time and passed to second reading.

Mr. President announced that he had signed,

C. B. 31, an Act relating to the qualifications of jurors, and the mode of selecting them.

C. B. 29, an Act relating to actions on official securities for fines and forfeitures, and to actions by and against public officers and public bodies.

C. B. 28, an Act for the limitation of actions.

C. B. 24, an Act to incorporate the Santiam River Bridge Company; and

H. B. 20, an Act for the relief of C. D. R. Boyd.

Mr. Phelps, by leave, introduced a bill, C. B. 49, to establish Santiam Academy, which was read a first time and passed to second reading.

On motion of Mr. Kelly, Council resolved itself into Committee of the Whole on business before it, Mr. Richardson in the Chair. After some time the Committee rose, and through their Chairman reported back H. B. 35, to amend an Act, entitled an Act to incorporate the Willamette Falls Canal Milling and Transportation Company, without amendment; also

C. B. 32, relative to the support of the poor, with the following amendments:

1. Strike out of 3d sec. all between the word "on," 5th line, and the word "but" in 7th line.

2. Sec. 2, page 234, code report, strike out the words "grandfather, grandmother and grandchild," and amend other parts of the bill to correspond with this amendment.

3. In 2d sec., page 234, code report, insert after the word "month" the words "or such other sum as the commissioners shall find sufficient."

4. Strike out all after the word "resolved," in 10th line, sec. 8, page 235, code report; also strike out sec. 9, on same page.

On motion, the amendments of the committee were adopted. On motion of Mr. Kelly, the bill was ordered to be engrossed and read a third time to-morrow.

H. B. 35, to amend an act to incorporate the Willamette Falls

Canal Milling and Manufacturing Company, was taken up, and, on motion of Mr. Kelly, the rules were suspended, the bill was read a third time and passed.

On motion, Council adjourned.

AFTERNOON SESSION.—2 P. M.

Council met pursuant to adjournment.

On motion of Mr. Kelly, Council took up the report of the Committee of Conference, on C. B. 13, relating to crimes and misdemeanors.

The question being on the adoption of the report of the committee, was decided in the affirmative, Messrs. Simpson, Humphrey and Fulkerson, by consent of the Council, being excused from voting.

A message from the House by their Clerk, Mr. M'Craken.

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the accompanying bills:

"H. B. 8, an act to organize Coos county.

"H. B. 24, an act to locate a territorial road from Salem to Philip Foster's.

"H. B. 32, to locate a territorial road from Estus' to Myrtle Creek; and

"H. B. 36, an act to extend the time for the collection of taxes in Lorin county; also, that the House concurs in Council amendment to H. B. 22, a bill to change the name of Rogue River; that the House has adopted the report of the Committee of Conference relative to C. B. 41, an act relating to stallions; and that they have passed the accompanying bills; H Bills 45, 48, 50, 49, and 42; and C. B. 38, an act to legalise the marriage between Isaac Butler and Tabitha Butler; and C B. 44, an act to establish an institution of learning in Washington county, with the accompanying amendment, in which the Council is requested to concur."

H. B. 45, to prevent the selling of fire-arms and ammunition to Indians, was read a first time and passed to second reading.

H. B. 48, relating to alienation by deed, &c., was read a first time and passed to second reading.

H. B. 42, relating to estates in dower, &c., was read a first time and passed to second reading.

H. B. 49, relating to fraudulent conveyances, was read a first time and passed to second reading.

C. B 44, to establish an institution of learning in Washington county, having been returned from the House with an amendment.

Mr. Kelly moved to concur with the House, which motion was lost.

Mr. President announced that he had signed the following bills:

H. B. 8, an Act to organize Coos county.

H. B. 24, an Act to locate a territorial road from Salem to Philip Foster's.

H. B. 32, an Act to locate a territorial road from Estus' to Myrtle Creek.

A. B. 36, an Act to extend the time of collecting the taxes in Linn County.

On motion, Council adjourned.

SATURDAY, JANUARY 14th, 1854.

Council met pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Kelly, from the Joint Code Committee, reported the following bills, which were read a first time and passed to second readin :

C. B. 50, relating to notaries public.

C. B. 51, relating to bills of exchange and promissory notes.

C. B. 52, regulating arbitrations.

C. B. 53, relating to seals.

H. B. 40, to locate a territorial road from Corvallis to Estus'; was read a second time.

On motion of Mr. Humphrey, the bill was amended by striking out the names of "Andrew Barlow and Joseph Bailey," and inserting "—— Patterson, a surveyor in Lane county, and Brice Fuller."

Mr. Humphrey moved further to amend, by adding to end of first section, the following: "That said surveyor be and is hereby authorized to act in the double capacity of viewer and surveyor, and receive payment for the same," which amendment was adopted.

The bill as amended, was ordered to be read a third time on Monday.

H. B. 32, to establish a territorial road, was read a second time, and ordered to a third reading on Monday next.

C. B. 48, regulating enclosures, was taken up.

On motion of Mr. Scott, the word "and," in second line of section 2, after the word "palisades," was stricken out.

On motion of Mr. Kelly, the word "or," in first section, after the word "plank," was struck out and inserted after the word "palisade," in the same section.

On motion of Mr. Phelps, the following amendment was adopted:—"Add to the end of section 1, "or wall of rock or stone four and a half feet high."

On motion of Mr. Phelps, the following amendment was adopted: Section 1, line four, strike out the words "ditches on each," and insert "a ditch on either."

On motion, the bill was ordered to be engrossed, and read a third time on Monday next.

H. B. 42, to regulate the Treasury Department, was read a second time.

On motion of Mr. Phelps, the following amendments were adopted:

1. In section 3, line two, after the word "take," insert the word "an."

2. In chapter 3, section 1, line three, strike out "December," and insert "March."

3. Strike out the word "securities," wherever it occurs, and insert "sureties."

On motion, the bill was ordered to be read a third time on Monday next.

H. B. 48, relating to alienation by deed, &c., was read a second time, and on motion, ordered to a third reading on Monday next.

H. B. 45, to prohibit the sale of arms and ammunition to Indians, was read a second time.

Mr. Kelly offered the following amendment, which was adopted: Amend section 1, by adding, "provided, the provisions of this Act shall not affect the sales made to Indians residing west of the Cascade Mountains, and north of the Calapooya Mountains."

On motion, the bill was ordered to be read a third time on Monday next.

H. B. 49, relating to fraudulent conveyances, was read a second time; and, on motion, ordered to a third reading on Monday next.

H. B. 50, relating to dower, &c., was read a second time.

Mr. Kelly offered the following amendment, which was adopted: In section 29, page 357, add, after the word "person," the words, "such heir or other person."

Mr. Phelps offered the following amendments, which were adopted:

1. Section 14, line 3, strike out "on," and insert "in."

2. Section 22, line 3, strike out the word "not."

3. Section 38, line 1, strike out "one," and insert "any."

On motion, the bill was ordered to be read a third time on Monday next.

Mr. Fulkerson, from the Committee on Roads and Highways, to whom was referred the petition of William C. Johnson and others for a territorial road from north end of Clackamas River Bridge, to intersect territorial road to Des Shutes River, by leave, reported by bill (C. B. 54,) in accordance with the prayer

of the petitioners, which bill was read a first time and passed to second reading.

On motion of Mr. Fulkerson, the rules were suspended and the bill read a second time.

On motion of Mr. Simpson, the words "county road," in section 1, were struck out, and the word "highway" inserted.

Mr. Simpson, from the Committee on Enrolled Bills, by leave, reported C. B. 38, a bill to legalize the marriage of Isaac Butler and Tabitha Butler, truly enrolled.

Mr. Kelly, from Committee on Engrossed Bills, by leave, reported C. B. 32, relating to the support of the poor; and C. B. 40, relating to estrays and to property lost or unclaimed, as truly engrossed, and they were read a third time and passed.

On motion, Council adjourned till Monday next.

MONDAY, JANUARY 16th, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Simpson, Scott and President.

Absent—Mr. Richardson.

Journal read.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 48, regulating enclosures, truly engrossed.

Mr. Fulkerson introduced a bill, C. B. 5[illegible], to prevent the sale of ardent spirits to Indians, which was read a first time and passed to second reading.

C. B. 50, relating to notaries public, was read a second time, and, on motion of Mr. Kelly, was considered engrossed and ordered to be read a third time to-morrow.

C. B. 51, relating to bills of exchange and promissory notes, was read a second time, considered engrossed, and ordered to be read a third time to-morrow.

C. B. 52, to regulate arbitrations; C. B. 53, relating to seals; and C. B. 49, to establish Santiam Academy, were read a second time, considered engrossed, and ordered to be read a third time to-morrow.

C. B. 48, regulating enclosures, and H. B. 52, to establish a territorial road, were read a third time and passed.

H. B. 45, to prevent the sale of arms and ammunition to Indians, was read a third time. Mr. Fulkerson moved to commit the bill to the Committee on Military Affairs, which motion did not prevail. The question being, shall the bill pass? was decided in the affirmative.

C. B. 54, to amend an act entitled, an act to incorporate the Clackamas Bridge Company, was read a third time and passed.

H. B. 40, to locate a territorial road from Corvallis to Estus'; H. B. 42, to regulate the treasury department; H. B. 48, relat-

ing to alienation by deed, &c.; H. B. 49, relating to fraudulent conveyances; and H. B. 50, relating to estates in dowers, &c., were read a third time and passed.

A message from the House, by their Clerk, Mr. M'Craken:

Mr. President:—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the accompanying bills: H. Bills 29, 34, 20, 26 and 28; also H. J. R's. 10, 13, 17, 16 and 14;

Also that the House has passed H. B. 51, and H. J. R. 21, and they are herewith transmitted; also that the House insists upon their amendment to C. B. 44, a bill to establish an institution of learning in Washington county.

H. J. R. 21, relating to the report of the Commissioners of the Penitentiary, was read and adopted.

H. B. 51, to establish a territorial road, was read a first time and passed to second reading.

C. B. 44, to establish an institution of learning in Washington county, having been returned from the House with notice that they insist upon their amendment; on motion, the Council refused to recede from their non-concurrence in the amendment.

Mr. Powers moved that a committee of conference be appointed to confer on the disagreement between the two Houses, which motion prevailing, Messrs. Powers, Kelly and Simpson were appointed the Committee on the part of the Council.

Mr. President announced that he had signed the following bills and resolutions:

H. B. 21, an Act for the relief of Clark county.

H. B 26, an Act to establish Union Academy.

H. B. 29, an Act to compensate prosecuting attorneys, *pro tem.*

H. B. 28, an Act to create and organize Wasco county.

H. B. 34, an Act to change the name of Albany.

H. J. R. 10, relative to a more correct mail delivery.

H. J. R. 18, relative to a joint convention of the two Houses.

H. J. R. 17, asking Congress for an appropriation of land for a railroad.

H. J. R. 16, relating to the territorial library.

H. J. R. 14, relating to extra mail service.

Mr. Scott, by leave, introduced C. B. 56, to provide for holding courts in Coos county, which was read a first time, and, on motion of Mr. Fulkerson, the rules were suspended, the bill was read a second time, and, on motion of same, referred to the Committee on Counties.

Mr. Powers, by leave, introduced C. B. 57, to facilitate judicial proceedings in Washington county, which was read a first time, and, on motion of Mr. Humphrey, the rules were suspended, the bill was read a second time, considered engrossed, and ordered to be read a third time to-morrow.

On motion, Council adjourned.

AFTERNOON SESSION—2 P. M.

Council met pursuant to adjournment.

Mr. Powers, by leave, introduced C. M. No. 1, asking Congress for an amendment of the land laws of Oregon, which was read a first time, and, on motion of Mr. Simpson, the rules were suspended, and the memorial was read a second time, and, on motion, the rules were further suspended, the memorial read a third time and passed.

On motion of Mr. Simpson, the vote of the Council on H. J. R. 20, relative to the report of the Penitentiary Commissioners was reconsidered.

Mr. Simpson offered the following amendment, which was adopted: Strike out in the first clause of the resolution the words "money has been paid," and insert, "they have paid money." The question recurring on the adoption of the resolution as amended, was decided in the affirmative.

Mr. Scott, from the Committee on Counties, to whom was referred H. B. 27, to create and organise Columbia County, reported the bill back with the following amendment, which was adopted:

Strike out after the word "west," 9th line, section 1, the following words: "to the main channel of the Willamette Slough; thence southwesterly up the main channel of the Willamette Slough to the head of Sauvie's Island in the Willamette river; thence due west," and insert "to the west bank of the Willamette Slough; thence southwest."

The bill as amended, was read a third time and passed.

Mr. Scott from the same Committee, to whom was referred C. B. 56, a bill to provide for holding courts in Coos county, by leave, reported by new bill, C. B. 58, an act supplementary to an act entitled an act to provide for the holding the Supreme and District Courts, which was read a first time and passed to second reading.

Mr. Simpson, by leave, offered the following resolution:

Resolved by the Legislative Assembly, that all regular sessions of the Legislature of this Territory shall commence on the first Monday in November of each year, unless otherwise provided by law.

On motion of Mr. Kelly, the resolution was laid on the table.

On motion, Council adjourned.

TUESDAY, JANUARY 17, 1854.

Council met pursuant to adjournment.

Present—all the members.

Journal was read.

C. B. 55, to prevent the sale of ardent spirits to Indians, was read a second time.

On motion of Mr. Kelly, the words "in this Territory," in section 2d, were struck out, and the words "within their respective counties," inserted.

On motion, the bill was ordered to be engrossed and read a third time to-day.

H. B. 51, to establish a territorial road, was read a second time, and, on motion, the rules were suspended, the bill was read a third time and passed.

C. B. 49, to establish Santiam Academy; C. B. 57, to facilitate judicial proceedings in Washington county; C. B. 51, relating to bills of exchange and promissory notes; C. B. 50, relating to notaries public; C. B. 52, to regulate arbitrations; and C. B. 53, relating to seals, were read a third time and passed.

On motion of Mr. Simpson, C. J. R. 8, was taken from the table, read a second time, and, on motion of Mr. Powers, referred to a select committee of three. Messrs. Powers, Kelly and Simpson, were appointed the committee.

Mr. Humphrey, by leave, introduced a bill (C. B. 59) for the relief of Adison R. Flint and others, which was read a first time. On motion of Mr. Powers, the rules were suspended, and the bill was read a second time.

On motion of Mr. Powers, referred to the Committee on Claims.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the accompanying bills have passed the House; H. B. 54, a bill relating to County Treasurers; H. B. 55, a bill relating to County Auditors; H. B. 56, a bill relating to Coroners; H. B. 44, an act to provide for the formation of a State Constitution; H. B. 43, an act to create the office of County Surveyor; H. B. 18, to change the name of Salem; C. B. 47, a bill to prevent Sabbath-breaking; C. B. 45, for the protection of school lands, and H. J. R. 22; also, that the House refuses to concur in Council amendments to H. B. 45, and that they have concurred in Council amendments to H. B. 40, with the accompanying amendment, in which the Council is requested to concur; and that they have concurred in Council amendments to H. Bills 50 and 27, and H. J. R. 20, and that Messrs. Cason, L. S. Thompson and Bennett, have been appointed a Committee of Conference, on the part of the House, relative to the disagreement on C. B. 44."

H. B. 18, to change the name of Salem, was read a first time, rules suspended, and the bill read a second time.

Mr. Simpson moved to amend by striking out the word "Chemawa" and insert "Thurston."

The question being on the adoption of the amendment, Mr. Simpson called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Powers, Richardson and Simpson—4.

Those who voted in the negative are Messrs. Humphrey, Kelly, Phelps, Scott and Mr. President—5.

So the amendment was not adopted.

On motion of Mr. Fulkerson, the bill was laid on the table.

H. B. 43, to create the office of County Surveyor, was read a first time and passed to second reading.

H. B. 54, relating to County Treasurers; H. B. 55, relating to County Auditors; H. B. 56, relating to Coroners, were read a first time and passed to second reading.

H. B. 44, to take the sense of the people relative to the formation of a State Constitution, was read a first time, the rules suspended, and the bill read a second time.

On motion of Mr. Richardson, referred to a select committee of three. Messrs. Richardson, Kelly and Humphrey were appointed the committee.

H. B. 40, to locate a territorial road from Corvallis to Estus', having been returned from the House with an amendment to Council amendment. On motion, the amendment to the amendment was adopted.

H. B. 45, to prohibit the sale of arms and ammunition to Indians, having been returned from the House with notice that they did not concur in Council amendment, on motion of Mr. Kellly, Council receded from their amendment.

H. J. R. 22, relating to the employment of an Assistant Enrolling Clerk, was read a first time, rules suspended, and resolution read a second time.

On motion of Mr. Powers, the resolution was amended by striking out the words "and that he" and inserting "who shall."

Resolution as amended was read a third time and passed.

On motion, Council adjourned.

AFTERNOON SESSION—2 P. M.

Council met pursuant to adjournment.

C. B. 58, a bill supplementary to an Act entitled an Act to provide for holding the District and Supreme Courts, was read a second time, rules suspended, the bill read a third time and passed.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 55, to prevent the sale of ardent spirits to Indians, as truly engrossed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the House concurs in Council amendment to H. J. R. 22; also that they have passed H. J. Rs. 23 and 24, and they are herewith transmitted; also that they have passed H. B. 68, C. Bills 46 and 35, and C. M. 1."

H. B. 68, amendatory of an act entitled an act for the holding of the District and Supreme Courts, was read a first time, the rules suspended, and the bill read a second time.

On motion, ordered to be read a third time to-morrow.

H. J. R. 23, relative to an Independent Company of Mounted Riflemen in Southern Oregon, was read and adopted.

H. J. R. 24, relative to the massacre of Capt. J. W. Gunnison, and company, was read and adopted.

Mr. Powers moved that the Council adjourn, which motion was lost.

Mr. Simpson offered the following resolution (C. R. 5) which was adopted.

Resolved, that the Committee on the Judiciary be requested to report a bill to provide for the keeping open of claim lines, where it is necessary for public convenience.

On motion, Council adjourned.

WEDNESDAY, JANUARY 18th, 1854.

Council met pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Kelly, from the joint Code Committee, reported C. B. 60, a bill to regulate proceedings in suits in Equity, which was read a first time and passed to second reading.

H. B. 48, to create the office of County Surveyor; H. B. 54, relating to County Treasurers; H. B. 55, relating to County Auditors; and H. B. 56, relating to Coroners, were read a second time, and ordered to be read a third time to-morrow.

H. B. 68, to provide for holding a term of the Supreme Court of Jacksonville, was read a third time, and, on motion of Mr. Humphrey, re-committed to the Committee on the Judiciary.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that he has signed H. B. 22, H. B. 33, and H. J. R 19, and they are herewith sent for your signature; also that the House has passed H. B. 58, to incorporate Multnomah Lodge, No 1., and it is herewith transmitted for the concurrence of the Council."

H. B. 58, to incorporate Multnomah Lodge, No. 1, was read a first time and passed to second reading.

Mr. President announced that he had signed H. B. 22, an act to change the name of Rogue River.

H. B. 33, an Act to provide for the public printing, and the distribution of the Laws and Journals.

H. J. R. 19, relating to Empire City on Coos Bay.

Mr. Humphrey, by leave, introduced a bill (C. B. 61) to provide for taking the census of Oregon, which was read a first time and passed to a second reading.

On motion, Council adjourned.

AFTERNOON SESSION, 2 P. M.

Council met pursuant to adjournment.

Mr. Powers, from the Conference Committee on C. B. 44, a bill to establish an institution of learning in Washington County, by leave, made the following report, which was adopted by the Council.

The Committee of Conference appointed on the part of the Council to meet a like Committee on the part of the House, to take into consideration the difference between the two Houses on C. B. 44, an act to establish an institution of learning in Washington County, have had the same under consideration and agree to the passage of the bill as it first came from the Council.

Mr. Kelly by leave, introduced a bill (C. B. 62) to relocate the Territorial Penitentiary, which was read a first time, the rules suspended, and the bill was read a second time.

On motion of Mr. Richardson, the bill was referred to a select committee of three, Messrs. Richardson, Kelly and Scott were appointed the Committee.

On motion, Council adjourned.

THURSDAY, JANUARY 19th, 1854.

Council met, pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Kelly, from the Judiciary Committee, to whom was referred H. B. 68, to provide for holding a term of the Supreme Court at Jacksonville, reported back the bill, with the following amendment:

Amend section 1, by adding the following:

Provided, that if the Clerk of the Supreme Court shall, within ten days next preceding the said second Monday of July, notify the Judges of the Supreme Court that there are no writs of error pending for trial in said court, then it shall not be necessary for said judges to meet and hold a court at such term.

The amendment was adopted, and the bill as amended was passed.

Mr. Powers, from the Select Committee, to whom was referred C. J. R. 8, relating to the time of the meeting of the Legislative Assembly, reported the same back, without amendment.

On motion of Mr. Kelly, the bill was laid on the table.

Mr. Richardson, from the Select Committee, to whom was referred C. B. 62, to relocate the Territorial Penitentiary, reported the same back without amendment.

On motion of Mr. Fulkerson, the bill was postponed to Monday, January 23d.

Mr. Fulkerson introduced a bill, (C. B. 63,) for the protection of the University lands, which was read a first time and passed to second reading.

H. B. 58, to incorporate the Multnomah Lodge, No. 1, was read a second time.

Mr. Kelly offered the following amendments, which were adopted:

Amend section 1, by striking out the enacting clause, and inserting as follows: "Be it enacted by the Legislative Assembly of the Territory of Oregon." Also, that the word "Circuit," in third line be stricken out, and the word "District," inserted.

On motion, the rules were suspended, and the bill as amended was read a third time and passed.

C. B. 60, to regulate proceedings in suits in Equity, was read a second time, the rules suspended, the bill considered engrossed, read a third time and passed.

H. B. 43, to create the office of County Surveyor, was read a third time, and the question being on the final passage of the bill, was decided in the negative.

H. B. 54, relating to County Treasurer; H. B. 55, relating to County Auditors; and H. B. 56, relating to Coroners, were read a third time and passed.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the House has passed the accompanying Council Bills: 49, 53, 52, 51 and 50, and they are returned for enrollment; H. Bills 74, 73, 66 and 60, and the Council is requested to concur; also C. B. 36, relating to the granting of licenses to sell spirituous liquors, &c., and C. B. 48, regulating enclosures, with the accompanying amendments, in which the Council is requested to concur; also H. J. R. 25, and the Council is requested to concur.

C. B. 36, relating to the sale of spirituous liquors, &c., having been returned from the House, with amendments; on motion, Council refused to concur in the amendments.

C. B. 48, relating to inclosures, having been returned from the House, with amendments; on motion, Council refused to concur in the amendments.

H. J. R. 25, relating to a mail route between Cauyenville and Yreka, was read and adopted.

H. B. 60, relating to counties, was read a first time and passed to a second reading.

H. B. 66, to appoint officers for Coos county, was read a first

time, rules suspended, the bill read a second time, and the rules being further suspended, the bill was read a third time and passed.

H. B. 73, to appoint officers for Columbia county, was read a first time, the rules suspended, and the bill was read a second time. On motion, the rules were further suspended, and the bill was read a third time and passed.

H. B. 74, to incorporate Salem Lodge, No. 4, was read a first time, rules suspended, and the bill was read a second time.

On motion of Mr. Kelly, the word "Circuit" was struck out, and the word "District" inserted.

On motion, the rules were suspended, the bill read a third time and passed.

On motion, Council adjourned.

AFTERNOON SESSION—2 P. M.

Council met pursuant to adjournment.

H. B. 18, to change the name of Salem, on motion of Mr. Powers, was taken from the table.

Mr. Simpson moved to amend the bill by striking out "Chemawa," and inserting "Valena."

Mr. Scott moved to amend the amendment, by inserting instead of "Valena" the word "Pike."

A message from the House by their Clerk, Mr. M'Craken, informing the President of the Council that the House was ready to go into joint convention for the election of Territorial Officers, and inviting the Council to their Hall.

On motion of Mr. Richardson,

The Council repaired to the Hall of the Representatives, and took their seats on the right and left of the Speaker.

On motion of Mr. Simpson, the Convention proceeded to the election of Territorial Printer, Messrs. Simpson and Jackson acting as Tellers.

The whole number of votes cast was 33, of which

Asahel Bush received	27
T. J. Dryer "	4
Scattering	2

Asahel Bush, having received a majority of the votes cast, was declared duly elected Territorial Printer.

The Convention then proceeded to the election of Territorial Treasurer, Messrs. Richardson and Peebles acting as Tellers.

The whole number of votes cast was 33, of which

J. D. Boon received	26
E. N. Cook "	2
S. E. May "	1
Scattering	4

J. D. Boon, having received a majority of the votes cast, was declared duly elected Territorial Treasurer.

The Convention then proceeded to the election of Territorial Auditor, Messrs. Phelps and L. S. Thompson acting as Tellers.

The whole number of votes cast was 33, of which

George K. Sheil received	27
S. E. May "	2
B. Stark "	1
Scattering	3

George K. Sheil, having received a majority of the votes cast, was declared duly elected Territorial Auditor.

The Convention proceeded to the election of Territorial Librarian, Messrs. Powers and Smith acting as Tellers.

The whole number of votes cast was 33, of which

T. T. Tierney, received	27
Scattering	6

T. T. Tierney, having received a majority of the votes cast, was declared duly elected Territorial Librarian.

The Convention proceeded to the election of Cayuse War Commissioner, Messrs. Chapman and Westerfield acting as Tellers.

The whole number of votes cast was 33, of which

C. N. Terry, received,	24
Scattering,	9

C. N. Terry, having received a majority of the votes cast, was declared duly elected Cayuse War Commissioner.

On motion of Mr. Richardson, the election of University Land Commissioner was postponed till Friday, January 27th, two o'clock, P. M.

The business of the Convention being finished, the Convention dissolved, and the Council returned to their Chamber.

The question at the time of going into Convention, being on the adoption of the amendment to the amendment to H. B. 18, was decided in the negative. The question recurring on the adoption of the amendment, was decided in the negative.

On motion of Mr. Kelly, the bill was amended by adding the letter "h" to the word "Chemawa."

On motion of Mr. Simpson, "Chemawah" was struck out and "Victoria" inserted.

On motion of Mr. Simpson, the bill was indefinitely postponed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed to inform you that the House has concurred in amendments to H. B. 68 and H. B. 58; also that they have passed the accompanying bills, H. B. 62, H. B. 72, and H. J. R. 26, and the Council is requested to concur therein."

H. J. R. 26, relating to adjournment, was read and adopted.

H. B. 62, relating to county commissioners, and H. B. 72, to incorporate the city of Portland, were read a first time and passed to second reading.

C. B. 27, to define the southern boundary of Umpqua county, was, on motion of Mr. Scott, taken from the table.

Mr. Richardson moved that the bill be read a third time now, which motion prevailing, the bill was read a third time and passed.

Mr. Simpson offered the following resolution; C. R. 8:

Resolved, that when the Council adjourns this day, they adjourn to Monday next, two o'clock, P. M.

On motion of Mr. Powers, the resolution was amended by striking out "two o'clock, P. M.," and inserting "nine o'clock, A. M.

The question being on the adoption of the resolution, Mr. Richardson called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Powers, Simpson, and Mr. President—4.

Those who voted in the negative are Messrs. Humphrey, Kelly, Phelps, Richardson and Scott—5.

So the resolution was not adopted.

On motion of Mr. Phelps, the vote was reconsidered, and the resolution adopted.

On motion, Council adjourned.

MONDAY, JANUARY 23d, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Powers, Phelps, Richardson, Scott and Mr. President.

Absent—Mr. Simpson.

Journal was read.

Mr. Kelly, from the Judiciary Committee, to whom was referred the petition of Lewis Love and others for the repeal of the Stephens' Ferry Charter, made a report, accompanied by bill C. B. 64, a bill to repeal the exclusive ferry privilege conferred on James B. Stephens, which was read a first time and passed to second reading.

On motion of Mr. Fulkerson, 300 copies of the report and bill were ordered to be printed.

Mr. Humphrey from the Select Committee appointed to examine the penitentiary, reported as follows:

The select joint Committee appointed to view the penitentiary and report the progress of the work, beg leave to report, that during the late recess of the Assembly, they proceeded to view the premises aforesaid, and found the location as set forth in the report of the Penitentiary Commissioners; that the clearing and grading the grounds selected, constitute all that has been effected in the immediate advancement of the work; but that everything is now ready for commencing the mason work as reported by the commissioners. Your committee regard the location as

being as favorable a one as could be obtained within the boundaries allowed to the commissioners for selection, and that the work done is of a substantial character.

Mr. Fulkerson, by leave, presented the petition of Selden Higgins, and 119 others, praying for an act authorizing the legal voters of Polk County to relocate the county seat.

On motion of Mr. Richardson, the petition was referred to the Committee on Counties.

H. B. 72, to incorporate the city of Portland, was read a second time, and ordered to a third reading to-morrow.

H. B. 62, relating to County Commissioners, was read a second time, and, on motion of Mr. Fulkerson, referred to Committee of the Whole.

H. B. 60, relating to counties, was read a second time, and ordered to be read a third time to-morrow.

C. B. 63, for the protection of University lands, was read a second time, and, on motion of Mr. Phelps, referred to the Committee on the Judiciary.

C. B. 61, to provide for taking the census of Oregon, was read a second time, and, on motion of Mr. Humphrey, referred to the Committee of the Whole.

H. J. R. 20, relating to apportionment, was taken from the table and adopted.

C. B. 62, to relocate the penitentiary, having been made the order of the day for to-day, was taken up, and, on motion of Mr. Kelly, laid on the table.

Mr. President presented a communication from Asahel Bush, Territorial Printer, relating to the binding of the "Oregon Archives."

Mr. Powers, by leave, offered a resolution (C. J. R. 9) relating to public printing, which was read a first time, rules suspended, and the resolution read a second time.

On motion of Mr. Kelly, referred to a select committee of three, Messrs. Kelly, Powers and Humphrey were appointed the committee.

Mr. Scott, by leave, offered the following resolution (C. J. R. 10) relative to light-house at the mouth of Umpqua River, which was read and adopted.

Whereas the Congress of the United States has appropriated fifteen thousand dollars for the erection of a light-house and the improvement of Umpqua harbor; therefore

Resolved, by the Council, the House concurring, that our delegate in Congress be and is hereby solicited to use his best endeavors, to have the money so appropriated immediately used in making said improvement.

Mr. Scott, by leave, offered the following resolution:

Whereas the division of Oregon Territory has made it necessary for the greater convenience of all parts of the territory, to

remove the seat of government, and provision has been made for the erection of a state-house, and the work has progressed to some extent, which must be at considerable loss, and there have been commonly appropriated considerably larger sums for the erection of public buildings in other territories, than has yet been appropriated for Oregon; therefore

Resolved, by the Council, the House concurring, that our delegate in Congress, be and is hereby requested to use his best endeavors to procure a further appropriation of thousand dollars, to be used in the erection of a state-house.

On motion, the resolution was laid on the table.

On motion of Mr. Powers, Council resolved itself into Committee of the Whole; Mr. Powers in the Chair.

After some time the committee rose and reported back H. B. 62, relating to County Commissioners, with the following amendments:

1. Strike out section 2 of House Bill, and insert section 2, as reported by the Code Commissioners.

2. Strike out the word "five," and insert "three" in first line of section 9.

The Committee, through their Chairman, asked and obtained leave to sit again on C. B. 61, relating to taking the census of Oregon.

On motion, Council adjourned.

AFTERNOON SESSION.—2. P. M.

Council met pursuant to adjournment.

Mr. President announced Messrs. Kelly, Powers and Phelps a Committee on the part of the Council, to act with a Committee of the House, under H. J. R. 20, relating to the apportionment of the Legislative Assembly.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the following bills: H. Bills 30, 27, 35, 52, 50, and H. J. R. 22, and they are herewith transmitted for your signature; also that they have passed H. Bills 75, 71, 59, 47, 41, 77, 63 and H. J. R. 27, and they are herewith transmitted to the Council for concurrence; also that the House have receded from their amendment to C. B. 48, relating to inclosures; also that they concur in Council amendments to H. B. 74; also that the House refuse to recede from their amendment to C. B. 36; also that they have passed C. B. 55, an Act to prevent the sale of ardent spirits to Indians, with the accompanying amendments, in which the Council is requested to concur."

H. B. 75, to incorporate the Portland Academy; H. B. 71, to locate a territorial road from Champoeg to Portland; H. B. 59,

relating to county prisons and their regulation; and H. B. 47, relating to roads and ferries, were read a first time and passed to second reading.

H. B. 41, relating to the assessment and collection of taxes, was read a first time, rules suspended, and the bill read a second time.

On motion of Mr. Fulkerson, the bill was referred to the Committee of Ways and Means.

H. B. 77, to locate a territorial road from Coos Bay to Jacksonville, and H. B. 63, to incorporate the Willamette Valley Railroad Company, were read a first time and passed to second reading.

H. J. R. 27, relating to mail delivery at Crescent City, was read and adopted.

H. B. 55, to prevent the sale of ardent spirits to Indians, having been returned from the House with amendments, on motion, the amendments were concurred in.

C. B. 36, relating to the granting of licenses to sell spirituous liquors, &c., having been returned from the House with notice that they insist on their amendments, Mr. Fulkerson moved to lay the bill on the table, which motion prevailed.

Mr. President announced that he had signed the following bills and resolutions:

H. B. 27, an act to create Columbia county.

H. B. 52, an act to establish a territorial road from Myrtle Creek to Jacksonville.

H. B. 35, an act to amend an act to incorporate the Willamette Falls Canal Milling and Transportation Company.

H. B. 50, an act relating to estates in dower, by the courtesy and general provisions concerning real estate.

H. B. 30, relating to the election of Justices of the Peace and Constables, and to proceedings in Justices' Courts; and,

H. J. R. 22, relating to the employment of an Assistant Enrolling Clerk.

On motion of Mr. Powers, Council resolved itself into Committee of the Whole, on C. B. 61, Mr. Powers in the chair.

After some time the committee rose and reported the bill back with amendments. On motion, the bill and amendments were referred to a select committee: Messrs. Humphrey, Richardson and Scott were appointed the committee.

The amendments of the Committee of the Whole to C. B. 62, relating to county commissioners, were adopted.

On motion, Council adjourned.

TUESDAY, JANUARY 24th, 1854.

Council met pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills truly enrolled:

C. B. 47, an Act to prevent Sabbath-breaking.

C. B. 53, an Act relating to seals.

C. B. 52, an Act to regulate arbitrations.

C. B. 39, an Act relating to marks and brands, and to weights and measures.

C. B. 44, an Act to establish an institution of learning in Washington County.

C. B. 49, an Act to establish Santiam Academy.

C. B. 51, An Act relating to bills of exchange and promissory notes.

C. M. 1, asking Congress to amend the land laws of Oregon.

H. B. 71, to locate a territorial road from Champoeg to Portland, was read a second time, and ordered to be read a third time to-morrow.

H. B. 75, to incorporate the Portland Academy, was read a second time, and referred to Committee on Incorporations.

H. B. 77, to locate a territorial road from Coos Bay to Jacksonville, was read a second time, rules suspended, the bill read a third time and passed.

H. B. 59, relating to County Prisons and their regulations, was read a second time, and ordered to be read a third time to-morrow.

H. B. 47, relating to roads and ferries, was read a second time, and referred to the Committee on Roads and Highways.

H. B. 63, to incorporate the Willamette Valley Railroad Company, was read a second time, and on motion of Mr. Powers, referred to the Committee on Incorporations.

C. B. 64, to repeal the exclusive ferry privilege conferred on James B. Stephens, was read a second time.

Mr. Simpson moved to amend by striking out the second and third sections of the bill, which motion prevailed.

On motion of Mr. Kelly, the second section was re-inserted, amended by striking out the words "Territory of Oregon" in third line, and inserting "counties of Clackamas and Washington."

Mr. Kelly moved to re-insert section 3, amended by striking out the words "Territory of Oregon;" and inserting "counties of Clackamas and Washington," also insert before the word "Clackamas," second line, the word "Washington;" also strike out "territory" in last line, and insert "said counties."

The bill was ordered to be engrossed and read a third time to-morrow.

H. B. 60, relating to counties; H. B. 62, relating to County Commissioners; H. B. 72, to incorporate the City of Portland, were read a third time and passed.

A message from the House, by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the House has passed H. B. 80, an Act to incorporate the Oregon City Water Company, and C. Bills, 54, 32, 60, and H. J. R. 28; also that Messrs. Grover, Miller and Moffitt, have been appointed a Committee on the part of the House to act with the Committee of the Council relative to apportionment, and that the House concurs in Council amendments, 1, 2, 4, 5, 6, 7, 8, 9, 11, 13, 14 and 16, and refuses to concur in Council amendments, 3, 10, 12 and 15 to H. B. 22."

H. B. 80, to incorporate Oregon City Water Company, was read a first time by title and passed to second reading.

H. J. R. 28, relative to a mail route from Salem to Washington Bute, was read. On motion of Mr. Simpson, the word "instructed" was struck out, and the word "requested" inserted.

The resolution as amended was adopted.

H. B. 22, relating to common schools and school lands, having been returned from the House with notice that the House had refused to concur in Council amendments 3, 10, 12, and 15, on motion, Council receded from their amendment 3, and insisted on their amendments 10, 12 and 15.

Mr. Kelly, by leave, introduced C. B. 65, relating to fees, which was read a first time and passed to second reading.

Mr. Simpson gave notice that on some future day he would introduce a bill authorizing County Commissioners to give or change the name of county seats.

Mr. Richardson, by leave, introduced C. M. 2, relating to the expenses of the Provisional Government, which was read a first time, rules suspended, and the memorial read a second time. On motion, referred to Committee of Ways and Means.

On motion, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the House has passed C. B. 57, with the accompanying amendment, in which the Council is requested to concur; also that they have passed the accompanying bills: H. B. 69, H. B. 61 and H. M. 3; also that they have concurred in C. J. R. 10, relating to Umpqua Light-House."

C. B. 57, to facilitate judicial proceedings in Washington county, having been returned from the House with an amendment,

On motion of Mr. Phelps,

The amendment was concurred in.

H. M. 3, relative to the admission of Oregon into the Union as a State, was read a first time and passed to second reading.

H. B. 61, relating to assessors, and H. B. 69, to incorporate Clackamas Railroad Company, were read a first time and second reading.

Mr. Fulkerson, by leave, introduced a bill, C. B. 66, concerning roads and highways, which was read a first time, rules suspended, and the bill read a second time. On motion of Mr. Kelly, referred to Committee on Roads and Highways.

On motion of Mr. Kelly, 100 extra copies of C. B. 65, relating to fees, were ordered to be printed.

Mr. Richardson, from the Select Committee, to whom had been referred H. B. 44, to take the sense of the people on the formation of a State Government, reported the same back with the following amendments, which were adopted.

1. Amend section 5 by striking out the word "August," and inserting the word "September."

2. Strike out section 6 and insert in its stead the following:

Section 6. Each county shall be entitled to elect twice as many delegates to such convention as such county has representatives in the Legislative Assembly; *provided*, that in addition to the number of delegates so authorized to be elected, each county attached to another for the purpose of electing a representative or representatives, shall be entitled to elect one delegate.

3. Amend sec. 8 by striking out "September" in the 5th line, and inserting "February."

The bill as amended was read a third time and passed.

Mr. Kelly moved to take from the table, C. B. 36, which motion did not prevail.

Mr. Powers, by leave, introduced a bill, C. B. 67, to revive an act to locate a territorial road from Astoria to the Willamette Valley, which was read a first time, and the rules being suspended, was read a second time.

On motion, ordered to be engrossed and read a third time tomorrow.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President*:—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the accompanying bills; C. Bills, 21, 44, 15, 49, 53, 52, 47, and 39, also C. M. 1;

Also that the House adopted the report of the Committee of Conference, relative to their disagreement on C. B. 44.

Mr. President announced that he had signed the following bills:

C. B. 53, an act relating to seals.

C. B. 21, an act to regulate proceedings in actions at law in the District and Supreme Courts.

C. B. 51, an act relating to bills of exchange and promissory notes.

C. B. 44, an act to establish an institution of learning in Washington county.

C. B. 52, an act to regulate Arbitrations.

C. B. 47, an act to prevent Sabbath-breaking.

C. B. 49, an act to establish Santiam Academy.

C. B. 39, an act relating to marks and brands, and to weights and measures.

C M 1, asking Congress to amend the Land law.

Mr. Scott, by leave, introduced a bill, C. B. 68, for the improvement of immigrant roads to Oregon, which was read a first time, and the rules being suspended, was read a second time.

On motion of Mr. Powers, referred to the Committee on Ways and Means.

On motion, Council adjourned.

WEDNESDAY, JANUARY 25th, 1854.

Council met pursuant to adjournment.

Present—all the members.

Journal was read.

Mr. Simpson, from the Committee on Enrolled Bills, reported C. B. 41, an act relating to stallions, truly enrolled.

Mr. Humphrey, from the Committee on Incorporations, to whom was referred H. B. 75, to incorporate the Portland Academy, reported the same back, with the following amendment, which was adopted:

Amend by inserting the following section as sec. 4, and renumbering the succeeding sections to correspond: "The President of the Board of Trustees shall, at the end of each Academical year, make and transmit to the Secretary of the Territory a written report of the names of the officers of the institution, the names of the teachers and the branches taught by them; the number of pupils taught in the several classes respectively, and the whole number taught during the year; which report the said Secretary shall place and keep on file in his office, for the free inspection of any person or persons wishing to examine the same.

The bill as amended was read a third time and passed.

H. M. 3, relative to the admission of Oregon into the Union, and H. B. 61, relating to Assessors, was read a second time, and ordered to be read a third time to-morrow.

H. B. 69, to incorporate the Clackamas Railroad Company, was read a second time, and, on motion of Mr. Kelly, referred to the Committee on Incorporations.

H. B. 80, to incorporate the Oregon City Water Company, was read a second time, and, on motion of Mr. Phelps, referred to the Committee on Incorporations.

C. B. 67, to revive an act to locate a territorial road from Astoria to the Willamette Valley, and H. B. 71, to locate a territorial road from Champoeg to Portland, were read a third time and passed.

H. B. 59, relating to County Prisons and their regulation, was read a second time. Mr. Humphrey moved to refer the bill to a select committee, which motion not prevailing, the bill was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you, that the House has passed C. B. 58, and it is herewith returned for enrollment; also, that they refuse to concur in Council amendments 10 and 15, and concur in 12, to H. B. 22, and that Messrs. Peebles and Cartee, have been appointed a Committee of Conference on the part of the House; also, that they refuse to concur in C. amendment 1, and concur in amendment No. 2, to H. B. 62; also, that they have concurred in Council amendments to H. B. 44 and H. J. R. 28; and that the House has passed H B. 67, an act for the relief of T. J. Dryer, and it is herewith transmitted to the Council for concurrence.

H. B. 62, relating to County Commissioners, having been returned from the House with notice that they refuse to concur in Council amendment 1; on motion of Mr. Powers, the Council receded.

H. B. 67, for the relief of T. J. Dryer, was read a first time, the rules suspended, and the bill was read a second time. On motion of Mr. Simpson, the bill was laid on the table.

H. B. 22, returned from the House with notice that they insist on their refusal to concur in Council amendments 10, 12 and 15, and that a committee of conference was asked, on motion a committee on the part of the Council was ordered, and Messrs. Richardson and Scott were appointed.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 64, to repeal the exclusive ferry privilege conferred on James B. Stephens, as truly engrossed. The bill was read a third time. The question being, "shall the bill pass?" Mr. Kelly called for the yeas and nays.

Those who voted in the affirmative are Messrs. Kelly, Powers, Richardson and Scott—4.

Those who voted in the negative are Messrs. Fulkerson, Humphrey, Phelps, Simpson and President—5.

So the bill was not passed.

On motion, Council adjourned.

AFTERNOON SESSION.

Council met pursuant to adjournment.

Mr. Kelly from the Joint Committee, appointed to report a bill re-appo:tioning the members of the Council and House of Representatives of the Legislative Assembly, reported by bill, C. B. 99, which was read a first time.

Mr. Powers moved to suspend the rules, and read the bill a second time now, which motion did not prevail.

On motion of Mr. Richardson, the vote was re-considered, the rules suspended, and the bill read a second time.

Mr. Kelly moved to amend, by giving three members to the county of Marion instead of four, and two instead of one to the county of Benton, pending which motion, on motion of Mr. Fulkerson, the further consideration of the bill was postponed till to-morrow.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying memorial has passed the House, and the concurrence of the Council is requested."

H. M. 4, relating to Oregon City claim, was read a first time, rules suspended, and the memorial read a second time.

On motion of Mr. Simpson, referred to the Committee of the Whole.

Mr. Richardson, by leave, introduced C. B. 70, to relocate the public buildings, which was read a first time, and the rules being suspended, was read a second time.

Mr. Simpson moved that the bill be indefinitely postponed.

Mr. Richardson called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Phelps, Powers, Simpson and President—5.

Those who voted in the negative are Messrs. Humphrey, Kelly, Richardson and Scott—4.

So the bill was indefinitely postponed.

On motion, Council adjourned.

THURSDAY, JANUARY 26th, 1854.

Council met pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Simpson, from the Committee on Enrolled Bills, reported the following bills truly enrolled:

C. B. 55, an Act to prevent the sale of ardent spirits to Indians.

C. B. 50, an Act relating to notaries public.

C. B. 58, an Act supplementary to an Act to provide for holding the District and Supreme Courts.

C. B. 57, an Act to facilitate judicial proceedings in Washington county.

C. B. 35, an Act relating to marriage and divorce.

C. B. 45, an Act for the protection of school lands.

C. B. 48, an Act relating to inclosures.

C. B. 5, an Act to open a territorial road, from Salem *via.* Doak's Ferry to Lafayette.

C. B. 54, an Act supplementary to an Act to incorporate the Clackamas River Bridge Company; and

C. J. R. 10, relating to Umpqua Light-House.

Mr. Humphrey, from the Committee on Incorporations, to whom was referred H. B. 80, to charter the Oregon City Water Company, reported the same back with the following amendments:

1. In section 3, line 2, strike out the word "two," and insert "three."

2. In line 2, section 11, strike out the word "two," and insert "one."

3. In section 12, strike out after the word "Assembly," in the third line, the words "after the expiration of fifteen years," and insert "whenever considerations of public good require it."

On motion of Mr. Kelly, the further consideration of the bill was postponed till to-morrow.

Mr. Humphrey, from the Select Committee to whom was referred C. B. 61, to provide for taking the census of Oregon, reported by new bill, C. B. 71, which was read a first time, rules suspended, and the bill read a second time; on motion, considered engrossed, and ordered to be read a third time to-morrow.

H. B. 61, relating to assessors, and H. M. 3, relating to the admission of Oregon into the Union, were read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed C. Bills 38 and 41, and they are sent to the House in which they originated; also, that the House has passed

"H. B. 81, for the relief of B. F. M'Leneh.

"H. B. 76, an Act to locate a road from Portland to intersect with the Oregon City and Salem road; also

"C. B. 67, and they are herewith transmitted."

H. B. 81, for the relief of B. F. McLeneh, was read a first time, rules suspended, and the bill read a second time, and the rules being further suspended, the bill was read a third time and passed.

H. B. 76, to amend an act to locate a territorial road from Port-

land to Oregon City, was read a first time and passed to second reading.

Mr. President announced that he had signed C. B. 38, an act to legalize the marriage between Isaac Butler and Tabitha Butler, and C. B. 41, an act relating to stallions.

On motion of Mr. Simpson, Council resolved itself into Committee of the Whole, Mr. Simpson in the chair.

After some time the committee rose and the Chairman reported back—

H. M. No. 4, relating to Oregon City claim, with the following amendment:

Strike out the word "old" before the word "settlers."

The amendment of the committee was adopted.

On motion of Mr. Kelly, the word "donor" was struck out and the word "donee" inserted.

The memorial was read a third time and passed.

Mr. Simpson, from the Committee on Ways and Means, to whom was referred C. B. 68, for the improvement of immigrant roads to Oregon, reported the same back without amendment.

On motion, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

On motion of Mr. Richardson, C. B. 68, for the improvement of immigrant roads to Oregon, was laid on the table.

C. B. 69, to re-apportion the members of the Legislative Assembly, was taken from the table.

The question being on the adoption of the amendment proposed by Mr. Kelly on yesterday, was decided in the affirmative.

On motion of Mr. Richardson, the bill was referred to the Committee of the Whole.

On motion of Mr. Simpson, Council resolved itself into Committee of the Whole, Mr. Scott in the chair.

After some time the committee rose, and, through their Chairman, reported the bill back without amendment.

A message from the House by their Clerk, Mr. M'Craken:

Mr. President:—I am directed to inform you that H. B. 79, to locate a territorial road from Salem to Washington Bute *via.* Santiam; H. B. 82, a bill to relocate the southern boundary of Douglass county; also H. B. 83, an act to incorporate the Oregon and California Railroad Company, have passed the House, and are sent to the Council for concurrence; also, that they have passed C. Bills 40 and 43, with accompanying amendments, in which the Council is requested to concur; also, that the House refuses to pass C. B. 27, and it is returned to the House in which

it originated; also, that they have concurred in Council amendments to H. B. 75.

H. B. 79, to locate a territorial road from Salem to Washington Bute, was read a first time, rules suspended, and the bill read a second time.

On motion, ordered to be read a third time to-morrow.

H. B. 82, to define the southern boundary of Douglass county, was read a first time and passed to second reading.

Mr. Richardson, from the Committee on Claims, to whom was referred C. B. 59, for the relief of A. R. Flint and others, reported the same back without amendments.

On motion, read a third time and passed.

Mr. Simpson from Committee on Enrolled Bills, reported as truly enrolled C. B. 67, an act to revive an act to locate a territorial road from Astoria to the Willamette Valley.

Mr. Kelly offered a resolution (C. J. R. 12) which was read and adopted.

On motion, Council adjourned.

FRIDAY, JANUARY 27th, 1854.

Council met pursuant to adjournment.

Present—All the members.

Journal was read.

Mr. Kelly presented the petition of O. C. Pratt and others, praying for an act creating a new county, which was referred to the Committee on Counties.

Mr. Fulkerson presented the petition of A. C. R. Shaw and others, praying for an act to incorporate the Cincinnati Railroad Company, accompanied by bill, C. B. 72, which was read a first time and passed to a second reading.

Mr. Richardson, from the Committee on Ways and Means, to whom was referred H. B. 41, relating to the assessment and collection of taxes, reported the same back with the following amendments, which were adopted.

1. Strike out in section 16, first line, the words "any assessor may at his discretion," and insert "every assessor shall."

2. Strike out the word "may" in same section, and insert "shall."

The bill as amended was read a third time and passed.

H. B. 76, to amend an act to locate a territorial road from Portland to Oregon City, was read a second time and ordered to be read a third time to-morrow.

H. B. 79, to locate a territorial road from Salem to Washington Bute, was read a third time and passed.

C. B. 71, to provide for taking the census of Oregon, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed C. Bills 5, 35, 45, 48, 50, 54, 55, 57, 58 and H. J. R. 10; also that the House has concurred in Council amendments to H. M. 4; and the House has passed H. J. Resolutions 30, 31, 35, 36 and H. B. 90, a bill to establish the county seat of Coos county, and they are sent to the Council for concurrence.

H. B. 90, to locate the county seat of Coos county, was read a first time and passed to a second reading.

H. B. 69, for the relief of T. J. Dryer, was taken from the table and referred to the Committee on Claims.

H. J. R. 30, relating to a mail route from Eugene City to Youcalla was read, and, on motion of Mr. Humphrey, postponed till to-morrow.

H. J. R. 31, relating to a mail route from Salem to Eugene City, was read and adopted.

H. J. R. 35, relative to binding archives and laws, was read and adopted.

H. J. 36, relating to Penitentiary Commissioners, was read, and, on motion of Mr. Kelly, postponed till to-morrow.

C. B. 43, regulating the interest on money, having been returned from the House with an amendment, Mr. Kelly moved that the Council do not concur, Mr. Richardson called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Humphrey, Kelly, Phelps, Simpson and Mr. President—6.

Those who voted in the negative are Messrs. Powers, Richardson and Scott—3.

So the amendment was not concurred in.

C. B. 40, relating to estrays and to property lost or unclaimed, having been returned from the House with sundry amendments, on motion, the amendments were concurred in.

Mr. Richardson, from the Committee on Roads and Highways, to whom was referred H. B. 47, relating to roads and ferries, reported the same back with the following amendments, which were adopted.

1. Add to the end of section 24, the following:

"*Provided*, that all territorial or county roads, which have or may hereafter be located for the term of two years, and not opened, shall be considered as vacated.

2. Strike out of section 42, page 372, code report, the word "four" in the 4th line, and insert in its stead the word "three."

On motion of Mr. Simpson, the words "ministers of the gospel and," in second subdivision of section 28, code report, were re-inserted.

On motion of Mr. Kelly, the words "and the act entitled an

act regulating ferries, passed 27th day of September, 1849, is hereby repealed," were added to section 56.

Mr. Humphrey, from the Committee on Incorporations, to whom was referred H. B. 63, a bill to incorporate the Willamette Valley Railroad Company, reported the same back with the following amendments, which were adopted:

1. In section 2, line 6, strike out "Marysville," and insert "Corvallis."

2. In section 3, line 10, strike out, "Committee," and insert "Board of Commissioners."

3. In section 6, strike out all after the word "aforesaid," and insert the following: "But when said corporation cannot agree with the owner or owners of such required land, for the purchase thereof, or as to the compensation to be paid therefor, or when by reason of the legal incapacity, or absence of any such owner or owners, no such agreement or purchase can be made, then and in that case, it shall be lawful for any judge of the Supreme Court of this territory, on application of said company and at the cost and charge of said company, to appoint three disinterested persons to view and examine the lands so taken, and to estimate the value of the lands so taken or required by the said company, and all damages which the owner or owners thereof shall sustain, or may have sustained, by reason of the taking of the same for the use and construction of said road, or works appertaining thereto; and it shall be the duty of said company to give three weeks' notice of their application to the judge of the Supreme Court for the appointment of said commissioners, to be published for three successive weeks in any newspaper published in this territory, and the affidavit of the publisher or printer, shall be legal evidence of such publication; and the persons so appointed, before entering upon the discharge of such duties, shall take an oath before some justice of the peace or other person competent by law to administer oaths, faithfully and according to the best of their abilities, to examine the lands so taken or required by said company, and impartially to estimate and appraise the value of the same, and the damages or injury which the owner or owners thereof shall have sustained or may sustain by reason of the taking thereof by said company; whereupon such commissioners shall proceed to examine the premises and estimate the value of such land, and the amount of damages, if any, which may accrue to such owner or owners as aforesaid, and shall make a report in writing of such valuation under their hands and seals, to the district court of the county in which such lands are situated, and shall return the same within thirty days after their appointment, to the clerk of the district court of said county; and it shall be the duty of the clerk of said court, to file the same, and in case no appeal shall be taken within thirty days after the filing of said report as hereinafter provided, then the

said clerk shall record the same at the expense of said company, and judgment of the said court shall be entered thereon on motion of either party at any term of said court; *Provided*, that either party may appeal to said court within thirty days after said report shall have been filed in the clerk's office, and such appeals shall be tried in the same manner as other issues are tried in said court, and the jury empannelled to try the same, shall find the value of the land so taken or required by said company, and the damages which the owner or owners thereof shall have sustained, or may sustain by the taking of the same, to such owner or owners for the construction of such railroad, and judgment of court shall be entered accordingly; *Provided also*, that it shall not be lawful for the said commissioners, or said court, to proceed in the assessment of damages, or in the valuation of any lands or materials, as aforesaid, in the absence of the owner or owners thereof, his, her or their agents or attorneys, unless it shall be shown to them by compet nt testimony, that said owner or owners have had at least five days' notice of the time and place at which such assessment or valuation was to be made, or that the said owner or owners are absent from the territory; and if the said owner or owners are absent from the territory; and if the said owner or owners shall be minors or *non compos mentis*, or absent from the territory, the service of notice may be made on the guardian or trustees, if there be any, or in such manner as the court may direct; *Provided also*, that upon making and filing of any report, as aforesaid, and payment or legal tender of the amount of any valuation or appraisal specified therein, to the owner or owners of any such lands, his, her or their legal representatives, the said company, their agents, or the contractors for making or repairing said railroad, may immediately take and use the same without awaiting the issue of any appeal brought thereon.

4. In section 7, strike out in the third line, after the words "*compos mentis*," to the word "may," in the 6th line.

5. In section 8, line 3d, strike out "construct," and insert "intersect."

6. In section 8, line 5th, strike out all in the said section after the word "state," and insert "in such manner as in nowise to impair its usefulness."

7. In line 1, section 9, strike out "negligently," and insert "maliciously."

8. Add the following section:

"SEC. 12. Said company shall not be empowered by this act, to take and hold land for the construction of said railroad, to exceed the width of four rods along the line of said road, except where the same may pass through timber, then and in that case, of sufficient width to preserve the said road from injury by the falling of timber."

The bill as amended was read a third time and passed.

Mr. President announced that he had signed the following bills and resolution:

C. B. 5, an Act to open a territorial road from Salem *via.* Doak's Ferry to Lafayette.

C. B. 35, an Act relating to marriage and divorce.

C. B. 45, an Act for the protection of school lands.

C. B. 48, an Act regulating inclosures.

C. B. 50, an Act relating to notaries public.

C. B. 54, an Act supplementary to an Act, to incorporate the Clackamas River Bridge Company.

C. B. 55, an Act to prevent selling ardent spirits to Indians.

C. B. 57, an Act to facilitate judicial proceedings in Washington county.

C. B. 58, an Act supplemental to an Act to provide for holding the District and Supreme Courts, and

C. J. R. 10, relating to Umpqua Light House.

H. B. 50, to charter the Oregon City Water Company, was taken from the table, and the first and second amendments of the Committee on Incorporations was adopted.

Mr. Kelly offered the following amendment as a substitute for the third amendment of the committee, which was adopted.

Strike out section 12, and insert the following:

"SEC. 12. At any time after the expiration of ten years from the passage of this act, the city corporation shall be entitled to take possession of the said works upon paying the value thereof, which value shall be assessed by three commissioners, one of whom shall be selected by the said company, and one by said city corporation, and the third shall be selected by the other two commissioners: the capital stock of said company shall be subject to such tax as now is or may be provided by law."

On motion, the bill as amended was read a third time, and the question being, "Shall the bill pass?"

Mr. Phelps called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Kelly, Richardson, Simpson, Scott and Mr. President—6.

Those who voted in the negative are Messrs. Humphrey, and Powers—3.

So the bill was passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House, to inform you that H. B. 46, a bill to locate a territorial road from Corvallis to Lafayette; H. B. 91, a bill to incorporate Lafayette Lodge, No. 3, of F. & A. Masons; H. B. 92, an Act to amend an act to locate the public buildings; H. J. R. 33, H. J. R. 38, H. J. R. 37, and H. B. 89, to repeal the exclusive ferry privilege conferred on James B. Stephens, have passed the House,

and the Council is requested to concur; and they have concurred in C. J. R. 12, to appoint a committee to report what laws shall be repealed; and Messrs. Grover, Boise and Cartee were appointed the Committee on the part of the House; also that they refuse to recede from their amendment to C. B. 43, to regulate the interest on money; also that they have concurred in amendment to H. B. 41."

H. B. 92, to amend an Act to locate the public buildings, was read a first time, rules suspended, and the bill read a second time.

Mr. Richardson moved to lay the bill on the table, which motion did not prevail.

Mr Simpson moved to indefinitely postpone the bill, Mr. Fulkerson called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Humphrey, Phelps, Powers, Simpson and Mr. President—6.

Those who voted in the negative are Messrs. Kelly, Richardson and Scott—3.

So the bill was indefinitely postponed.

H B. 91, to incorporate Lafayette Lodge, No. 3, of Free and Accepted Masons, was read a first time and passed to second reading.

H. B. 46, to locate a territorial road from Lafayette to Corvallis, was read a first time, rules suspended, and the bill read a second time; on motion, the rules were further suspended, the bill read a third time and passed.

Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

H. J. R. 37, relative to publishing the decisions of the Supreme Court; H. B. 33, against a division of the territory; H. B. 38, relative to first appropriation for State-House, were read and adopted.

C. B. 43, to regulate the interest on money, returned from the House with notice that the House refused to recede from their amendment, Mr. Simpson moved that the Council insist upon their refusal to concur, and that a committee of conference be appointed, which motion prevailing, Messrs. Kelly, Humphrey and Powers were appointed the committee.

H. B 89, to repeal the exclusive ferry privilege conferred on James B. Stephens, was read a first time, the rules suspended, and the bill read a second time.

Mr. Simpson moved to amend by striking out the words

"Territory of Oregon" in the second line, and inserting "counties of Clackamas and Washington," also in third section strike out "Territory of Oregon," and insert "counties of Clackamas and Washington."

The question being on the adoption of the amendment, Mr. Kelly called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson Phelps and Simpson—3.

Those who voted in the negative are Messrs. Humphrey, Kelly, Powers, Richardson, Scott and Mr. President.—6.

So the amendment was not adopted.

On motion of Mr. Kelly, the bill was laid on the table till to-morrow.

Mr. Richardson moved to take from the table H. J. R. 15, relative to land offices in Oregon, which motion prevailed.

Mr. Kelly offered the following amendments to the resolution, which were adopted:

1. Strike out the word "three" in seventh line, and insert "two."

2. Strike out all after the word "valley" in the ninth line.

The resolution, as amended, was adopted.

On motion of Mr. Kelly, C. B. 62, to relocate the Territorial Pententiary, was taken from the table.

On motion of Mr. Simpson, the resolution was indefinitely postponed.

A message from the House by their clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that the accompanying bill has passed the House, H. B. 38, and it is sent to the Council for concurrence."

H. B. 38, to create a school district in Oregon city, was read a first time, and passed to second reading.

Mr. Richardson, from the Committee on Ways and Means, to whom was referred H. B. 69, for the relief of T. J. Dryer, reported the same back without amendment.

The bill was read a third time and passed.

On motion, Council adjourned.

SATURDAY, JANUARY 28th, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott, and Mr. President.

Absent—Mr. Simpson.

Journal was read.

Mr. Fulkerson, from the Committee on Ways and Means, to

whom was referred C. M. 2, asking Congress to liquidate the debt of the Provisional Government, reported the same back without amendment.

The memorial was read a second time, and the rules being suspended, was read a third time and passed.

Mr. Humphrey, from the Committee on Incorporations, to whom was referred H. B 80, a bill to incorporate the Oregon and California Railroad Company, reported the same back with the following amendments:

1. Strike out the word "Circuit," and insert "District," wherever the former word occurs.

2. In section 11, last line of second page of said section, strike out the word "hereinafter," and insert "hereinbefore."

3. In section 16, line fourteen, strike out after the word "corporation," to the word "and," in seventeenth line.

4. In line two, after the word "provided," insert, "it shall be sufficient for said company to deposit the amount of damage aforesaid, as hereinbefore provided."

5. Add to section 18, the following:

"*Provided*, that the Legislative Assembly may at any future time, amend, alter or repeal this Act of incorporation, when the wants of the company, or considerations of public good may require it."

Mr. Humphrey, from the same Committee, to whom had been referred H. B. 69, to incorporate the Clackamas Railroad Company, referred the same back, with the following amendments:

1. In section 10, line 1, strike out the word "ten," and insert "five."

2. Strike out the word "circuit," wherever it occurs, and insert the word "district."

3. In section 17, strike out the words, "any law on the subject of usury in this territory, or state where such transaction may be made, to the contrary notwithstanding."

4. Add the following sections:

"SEC. 19. The Legislative Assembly may at any future time amend, alter, or repeal this Act of incorporation, when the wants of the company or considerations of public good require it.

"SEC. 20. This act to take effect from and after its passage."

On motion of Mr. Kelly, the bills, H. B. 80 and H. B. 69, were postponed to January 30th.

Mr. Scott, from the Committee on Counties, to whom was referred the petition of O. C. Pratt and others, reported by bill, C. B. 73, to change and define the boundary line of Clackamas county, which was read a first time and passed to second reading.

Mr. Scott, from the same committee, also reported a bill, C. B. 74, to create and organize Multnomah county, which was read a first time and passed to second reading.

Mr. Phelps, from the Select Committee, to whom was referred H. B. 31, to establish Corvallis Seminary, reported the same back without amendment. On motion, the bill was read a third time and passed.

H. B. 90, to establish the county seat of Coos county, was read a second time, rules suspended, the bill read a third time and passed.

H. B. 91, to incorporate Lafayette Lodge of F. & A. Masons, was read a second time.

Mr. Fulkerson offered the following amendment: "Nothing in this Act shall be so construed as to prevent the Legislative Assembly at any time to amend, alter or repeal the same when the public good may require it."

The question being on the adoption of the amendment, Mr. Fulkerson called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Phelps and Powers—3.

Those who voted in the negative are Messrs. Humphrey, Kelly, Richardson, Scott and Mr. President—5.

So the amendment was not adopted.

On motion, the rules were suspended, the bill read a third time and passed.

C. B. 65, to regulate the fees of certain officers, and other persons, was read a second time and referred to Committee of the Whole.

H. B. 38, to create a school district in Oregon City was read a second time.

On motion of Mr. Phelps, referred to the Committee on Education.

C. B. 72, to incorporate the Cincinnati Railroad Company, was postponed to January 30.

H. B. 76, to amend an act to locate a territorial road from Portland, to intersect with Oregon City and Salem road, was read a third time and passed.

H. B. 82, to locate the southern boundary line of Douglass County, was read a second time, and referred to the Committee on Counties.

C. B. 69, to apportion the members of the Legislative Assembly, was taken up, and, on motion, recommitted to the Committee of the Whole.

H. J. R. 80, relative to a mail route from Eugene City to Youcalla, was taken up and adopted.

H. B. 89, to repeal the exclusive ferry privilege of James B. Stephens, was read a third time, and the question being on the final passage of the bill, Mr. Kelly called for the yeas and nays.

Those who voted in the affirmative are Messrs. Kelly, Powers, Richardson, Scott, and Mr. President.—5.

Those who voted in the negative are Messrs. Fulkerson, Humphrey, and Phelps—3. Absent—Mr. Simpson.

So the bill was passed.

H. J. R. 36, relative to Penitentiary Commissioners, was taken up and adopted.

On motion of Mr. Scott, Council resolved itself into Committee of the Whole, Mr. Phelps in the chair. After some time, committee rose, and, through their Chairman, reported back C. B. 65, a bill regulating fees, with amendments, and asked and obtained leave to sit again.

Amendment 1. Add a sixth subdivision as follows: "Distributing the Laws and Journals of each regular session of the Legislative Assembly, to be paid out of the Territorial Treasury—$100 00.

Amendment 2. Sec. 5, line 6, insert 10 cents.

3. Sec. 7, line 10, strike out "five" and insert "three."

4. Add to sec. 7, the following:

"For conveying a prisoner under sentence to the penitentiary, and delivering him to the warden or keeper thereof, three dollars per day, (besides mileage,) for himself and prisoner, for the time actually employed, to be paid out of the Territorial Treasury."

5. Add a new section, as follows:

"Sec. 28. The clerk of any Court of Record shall, on the application of any witness to have his fees allowed, enter in his fee-book under the style of the cause in which the witness was summoned or recognized, the name of the witness, the number of days he has attended, and the number of miles he had necessarily to travel in consequence of the summons or recognizance, and shall swear the witness to the statement contained in the entry, and witnesses shall claim their attendance at each term of court as they attend, and not afterwards.

The amendments of the committee were adopted. On motion, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

C. B. 65, to regulate the fees of certain officers, was taken up. Mr. Kelly offered the following amendment, which was adopted:

Insert a section after sec. 17, as follows:

"*Fees of County Commissioners.*—Sec. 18. Each County Commissioner shall be entitled to receive four dollars per day, for every day necessarily employed in transacting the business of the County, and mileage, any thing in the act relating to County Commissioners, passed January, 1854, to the contrary notwithstanding."

Mr. Kelly moved to strike out the word "three" in fourth

amendment of the Committee of the Whole, and insert "five," which motion was agreed to.

The bill as amended was ordered to be engrossed and read a third time on Monday next.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that Messrs. L. S. Thompson, Boise and Peebles, have been appointed a Committee on the part of the House to confer with the Committee of the Council on disagreement relative to amendments to C. B. 43."

Mr. Humphrey offered a resolution, C. J. R. 13, relative to a joint convention of the two Houses, which was read and adopted.

Mr. Phelps, by leave, introduced a bill, C. B. 75, to locate a territorial road from Salem to Eugene City, which was read a first time, and the rules being suspended, was read a second time. On motion, considered engrossed, and ordered to be read a third time on Monday next.

Mr. Richardson, by leave, introduced a bill, C. B. 76, to locate a territorial road from Lafayette to Corvallis, which was read a first time, rules suspended, and the bill read a second time.

Mr. Richardson offered the following amendment which was adopted:

Strike out the words "*via.* Birch's in Polk county."

The bill was ordered to be engrossed and read a third time on Monday next.

Mr. President presented a communication from Wm. M. King, one of the Commissioners to erect a Territorial Penitentiary, which was read and a copy ordered to be transmitted to the House of Representatives.

Mr. Kelly, from the Committee of Conference on C. B. 43, a bill to regulate the interest on money, made the following report, which was adopted:

The Comittee of Conference on C. B. 43, relating to the interest on money, report that they met with a like Committee on the part of the House, and have agreed to report as follows: That it is recommended by the joint committee that the Council do agree to the amendments of the House.

Mr. Richardson, from the Committee of Conference on H. B. 22, relating to common schools and school lands, submitted the following report, which was adopted:

The Committee of Conference on the part of the Council, to whom was referred the difference between the two Houses on H. B. 22, report that the Council do not recede from their amendments, and that the House concur in said amendments.

On motion, Council adjourned.

MONDAY, JANUARY 30th, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott and Mr. President.

Absent—Mr. Simpson.

Mr. President presented the petition of Charles E. Cox and others, praying for a new county to be formed of parts of Washington and Clatsop counties, which was read and referred to the Committee on Counties.

Mr. President also presented the petition of S. G. Reed and others, praying for a territorial road from West Tualiton Plains to Rainier, which was read and referred to the Committee on Roads and Highways.

Mr. Kelly, from the Committee on Engrossed Bills, reported C. B. 76, a bill to locate a territorial road from Lafayette to Corvallis, and C. B. 65, to regulate the fees of certain officers and other persons, as truly engrossed.

Mr. Powers, from the Committee on Enrolled Bills, reported as truly enrolled:

C. B. 13, an Act to define crimes and misdemeanors, and regulate criminal proceedings.

C. B. 32, an Act relating to the support of the poor; and

C. B. 60, an Act to regulate proceedings in suits in equity.

Mr. Powers, from the Committee on Education, to whom was referred H. B. 38, a bill to organize a school district in Oregon City, reported the same back with the following amendment, which was adopted:

At the end of 4th section insert the following:

"*Provided*, That whenever a school district shall be organised in Linn City, and a proportionate amount of taxation made and paid in for the support of the school or schools, the children of said district shall enjoy all the benefits and privileges of said school, and shall be allowed to cross and re-cross said ferry free of charge, for the purpose of attending said school, the same as though they belonged to the same district."

Mr. Phelps offered the following amendment which was adopted:

"The Legislature may, at any future time, amend, alter or repeal this act, when considerations of public good and the wants of the school district require it."

Mr. Fulkerson moved to strike out the 4th section of the bill. Mr. Kelly called for the yeas and nays.

These who voted in the affirmative are Messrs. Fulkerson, Humphrey, Phelps, Scott and Mr. President—5.

Those who voted in the negative are Messrs. Kelly and Powers—2.

Mr. Richardson excused from voting.

Mr. Simpson absent.

So the 4th section was struck out.

The bill as amended was read a third time and passed.

Mr. Kelly from the Joint Committee to whom was referred C. J. R. 9, relating to public printing, reported by new resolution, C. J. R. 14, prescribing the manner of printing and publishing the laws and journals.

Mr. Kelly from the Joint Committee to whom was referred the resolution requiring them to report what laws should not be repealed, reported by bill, C. B. 77, to repeal all acts heretofore passed, with certain exceptions, which was read a first time, rules suspended, and the bill read a second time. On motion, the rules were further suspended, the bill read a third time and passed.

Mr. Kelly presented a communication from G. D. R. Boyd, which was read, and a copy ordered to be sent to the House of Representatives.

H. B. 75, to change and define the boundary line of the county of Clackamas and the counties of Washington, Yamhill and Marion, was read a second time and ordered to be read a third time to-morrow.

C. B. 74, to create Multnomah county, was read a second time. Mr. Kelly offered the following amendment, which was adopted:

Strike out sec. 4 and insert a new section as follows:

"The seat of justice of said county is hereby established at Milwaukie."

The bill was ordered to a third reading to-morrow.

H. B. 76, to locate a territorial road from Lafayette to Corvallis; C. B. 65, to regulate the fees of certain officers and other persons, and C. B. 75, to locate a territorial road from Salem *via.* Takinah, to Eugene city, were read a third time and passed.

Messages from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that C. B. 71, a bill to provide for taking an enumeration of the inhabitants of Oregon, and C. M. 2, relating to expenses of the Provisional Government, have passed the House, and are returned to the House in which they originated, for enrollment."

"*Mr. President:*—I am directed to inform you that the accompanying bills, H. Bills 17, 16, 96, 88, 87, 94, 57, 93, 95 and H. J. Resolutions 40 and 39, have passed the House and are sent to the Council for concurrence; also, that they have concurred in C. J. R. 13, relative to a joint convention; also, that the House concurs in Council amendments to H. B. 63 and H. B. 80 and H. J. R. 15, and that the Committee of Conference on the disagreement to C. B. 43, and H. B. 22, have reported and their reports been adopted; also that the Speaker of the House of Representatives has signed the following H. Bills: 48, 49, 42, 59, 62, 61, 81, 75, 40, 57, 58, 68, 73, 54, 56, 74, 71, 55, 44 and 45; H. memorials 3 and 4; H. J. Resolutions 23, 28, 27, 26, 21, 25, 24, and 20, and they are sent to the Council for your signature."

H. B. 91, to authorize the County Commissioners of Tilamook county to locate the county seat, was read a first time, rules suspended, the bill read a second time, and the rules being further suspended, was read a third time and passed.

H. B. 86, to compensate sheriffs for taking prisoners to the Territorial Penitentiary, was read a first time and passed to second reading.

H. B. 96, to organize the militia, was read a first time, the rules suspended, the bill read a second time and referred to the Committee on Military Affairs.

H. B. 88, to amend an act supplementary to an act to provide for the selection of places for the location of the public buildings of Oregon, was read a first time, rules suspended, and the bill read a second time. On motion, the rules were further suspended, the bill read a third time and passed.

H. B. 87, for the relief of Isaac Hutchins, was read a first time, rules suspended, the bill read a second time, and the rules being further suspended, was read a third time and passed.

H. B. 94, to locate a territorial road from Burlington to intersect the territorial road from Corvallis to Estus', was read a first time, rules suspended and the bill read a second time. On motion, referred to the Committee on Roads and Highways.

H. B. 57, relating to the office of Sheriff, was read a first time and passed to second reading.

H. B. 93, to create the office of Harbor-Master, and define his duties, was read a first time, rules suspended, and the bill read a second time. On motion, the rules were further suspended, the bill read a third time and passed.

H. B. 95, to incorporate Willamette Lodge, No. 2, was read a first time, and passed to second reading.

H. J. R. 39, relating to the erection of a Territorial Capitol, was read and adopted.

H. J. R. 40, relative to making Empire City a port of entry, was read, and, on motion of Mr. Richardson, the word "required," was struck out, and the word "requested," inserted. The resolution, as amended, was adopted.

H. B. 47, relating to roads and ferries, having been returned from the House with notice that the Council refused to concur in C. amendment 3.

On motion of Mr. Phelps, Council refused to recede.

On motion, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

Mr. President announced that he had signed the following resolutions, memorials and bills:

H. J. R. 26, relative to adjournment.

H. J. R. 23, relating to Independent Company of Mounted Riflemen.

H. J. R. 28, relating to a mail route from Salem to Washington Bute.

H. J. R. 27, relating to mail delivery at Crescent City.

H. J. R. 21, relating to the report of the Penitentiary Committee.

H. J. R. 25, concerning a weekly mail between Cauyonville and Yreka.

H. J. R. 24, relating to the death of Captain Gunnison and company.

H. J. R. 20, appointing a Committee on Apportionment.

H. M. 3, relating to a State Constitution and admission into the Union.

H. M. 4, relating to the Oregon City claim.

H. B. 61, an act relating to Assessors.

H. B. 81, an act for the relief of B. F. M'Leneh.

H. B. 75, an act to incorporate Portland Academy.

H. B. 66, an act to appoint officers for Coos county.

H. B. 40, an act to open a territorial road from Corvallis to Estus'.

H. B. 51, an act to open a territorial road from Philip Foster's to Fort Boise.

H. B. 58, an act to incorporate Multnomah Lodge, No. 1.

H. B. 68, an act to provide for holding a term of the Supreme Court at Jacksonville.

H. B. 54, an act relating to County Treasurers.

H. B. 56, an act relating to Coroners.

H. B. 74, an act to incorporate Salem Lodge, No. 7.

H. B. 71, an act to open a territorial road from Champoeg to Salem.

H. B. 55, an act relating to County Auditors.

H. B. 44, an act to provide for the formation of a State Constitution.

H. B. 45, an act to prohibit the sale of arms and ammunition to Indians.

H. B. 59, an act relating to county prisons, and their regulation.

H. B. 62, an act relating to County Commissioners.

H. B. 73, an act to appoint officers for Columbia county.

H. B. 48, an act relating to alienation by deed, &c.

H. B. 49, an act relating to fraudulent conveyances.

H. B. 42, an Act to regulate the Treasury Department.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that H. B. 98, to provide for the appointment of Librarian, and define his duties; H. B. 85, to view a road from Smith's river, Umpqua county,

to the Willamette Valley; H. M. 5, relative to land titles in Oregon; H. J. R. 42, to increase the pay of members of the Legislative Assembly; H. J. R. 41, relative to the payment of the Committee appointed to examine the condition of the Penitentiary; and C. B. 59, have passed the House; also that the Speaker has signed H. Bills 31, 80, 90, 79, 46, 63, and 41; H. J. Resolutions 31, 33, 37, 38, 15 and 35; and they are sent to the Council for your signature."

H. B. 98, to provide for the office of Territorial Librarian, was read a first time and passed to a second reading.

H. B. 85, to view a territorial road from Smith's river to the Willamette Valley, was read a first time, rules suspended, and the bill read a second time.

Mr. Richardson moved to amend by striking out the word "Gardiner," and inserting "Heatherly's in Lane county."

The amendment was adopted, and the bill was ordered to a third reading to-morrow.

H. M. 5, relative to land titles in Oregon, was read a first time, rules suspended, and the memorial read a second time.

On motion, the memorial was read a third time, and passed.

H. J. R. 42, relating to an increase of the pay of members of the Legislative Assembly, was read and adopted.

H. J. R. 41, relating to pay of the Commissioners appointed to examine the condition of the Territorial Penitentiary, was read a first time, rules suspended, and the resolution read a third time. Ordered to a third reading to-morrow.

Mr. Powers, from the Committee on Enrolled Bills, reported as truly enrolled, C. B. 40, an act relating to estrays, and to property lost and unclaimed, and C. J. R. 12, relating to the appointment of a committee to report what laws shall not be repealed.

Mr. Richardson, from the Committee on Roads and Highways, to whom was referred H. B. 94, to open a territorial road from Burlington to intersect with the Corvallis and Estus' road, reported the same back without amendment.

The bill was ordered to be read a third time to-morrow.

Mr. Richardson, from the Committee on Roads and Highways, to whom was referred the petition of S. G. Reed and others, praying for a territorial road, reported by bill C. B. 78, to locate a territorial road from Tualiton Plains to Rainier, which was read a first time, rules suspended, and the bill read a second time.

On motion, the rules were further suspended, the bill read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

Mr. President:—I am directed to inform you that the House concurs in Council amendment 2, and refuses to concur in amendment 1, to H. B. 38.

H. B. 38, having been returned from the House, with notice that they had refused to concur in Council amendment 1. On motion of Mr. Kelly, the bill was postponed till to-morrow.

Mr. Scott, from the Committee on Counties, to whom was referred the petition of sundry persons praying for a new county, made the following report:

The Committee to whom was referred the petition of divers of the citizens of Washington and Clatsop counties, beg leave to report that they deem it inexpedient under existing circumstances, to grant the prayer of the petitioners.

Mr. Scott, by leave, introduced a bill, C. B. 79, to locate a territorial road from Eugene City to Scottsburg, which was read a first time, rules suspended, and the bill read a second time. Ordered to a third reading to-morrow.

H. B. 80, to incorporate the Clackamas Railroad Company, was taken from the table, and amendments 1, 2, 3 and 5, recommended by the Committee on Incorporations, were adopted.

Mr. Kelly moved the following amendment, as a substitute for the fourth amendment of the committee.

"SEC. 19. The Territory of Oregon or any state formed therefrom and within which the said railroad may be situated, may at any time within twenty years after the completion of said road, take possession of the same, and all the rights and privileges hereby conferred, upon paying to the said railroad company the value thereof, which value shall be determined hereafter, in such manner as may hereafter be prescribed by law."

The question being on the adoption of the amendment, Mr. Phelps called for the yeas and nays.

Those who voted in the affirmative are, Messrs. Fulkerson, Kelly, Powers, Richardson, Scott and Mr. President—6.

Voting in the negative Messrs. Humphrey and Phelps—2.

Absent—Mr. Simpson.

So the amendment was adopted.

The question being on the final passage of the bill, Mr. Phelps called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Kelly, Powers, Richardson, Scott and Mr. President—6.

In the negative Messrs. Humphrey and Phelps—2.

Absent—Mr. Simpson.

So the bill was passed.

H. B. 83, to incorporate the Oregon and California Railroad Company, was taken up, and amendments 1, 2, 3, 4 and 5, from the Committee on Incorporations, were adopted. On motion of Mr. Kelly, the following amendment was substituted for the sixth amendment recommended by the Committee on Incorporations.

"SEC. 19. The Territory of Oregon and any state formed therefrom, within which the said Railroad may be situated, may at any time within twenty years after the completion of said road,

take possession of the same, and all the rights and privileges hereby conferred, upon paying to the said Railroad company the value thereof, which value shall be determined hereafter, in such manner as may hereafter be prescribed by law.

"SEC. 20. The Legislature may at any time alter or amend this act when it becomes necessary for the public good."

The bill as amended was read a third time and passed.

C. B. 72, to incorporate the Cincinnati Railroad Company, was read a third time.

Mr. Fulkerson offered the following amendment, which was adopted.

Add to section 18 the words "but nothing in the foregoing sections, shall be so construed as to prevent the Legislature from altering or amending the same, when in their opinion the public good requires it.

The bill as amended was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the speaker of the House of Representatives, to inform you that the accompanying Resolution, H J. R. 13, has passed the House, and the Council is requested to concur.

H. J. R. 43, relative to a joint convention of the two Houses, was read and adopted.

On motion, the Council went into Committee of the Whole, Mr. Kelly in the chair.

After some time the committee rose, and through their Chairman, reported back C. B. 69, a bill to re-apportion the members of the Legislative Assembly, with the following amendments:

"One councilman to the counties of Washington and Columbia jointly; one to the counties of Yamhill and Clatsop jointly; one to the counties of Polk and Tilamook jointly. One member of the House of Representatives to the county of Clatsop; one to the county of Polk; one to the counties of Polk and Tilamook jointly."

The amendments of the committee were adopted. The bill as amended, was ordered to be engrossed and read a third time to-morrow.

On motion, Council adjourned to 6 o'clock, P. M.

EVENING SESSION.

Council met pursuant to adjournment.

Mr. Powers, from the Committee on Enrolled Bills, reported as truly enrolled, C. B. 30, an Act relating to elections, and the mode of supplying vacancies in office.

Mr. Fulkerson, by leave, introduced a bill, C. B. 80, to change the name of Josiah W. Lingenfelter, which was read a first time, rules suspended, and the bill read a second time. On motion,

the rules were further suspended, the bill read a third time and passed.

Mr. M'Craken, Clerk of the House of Representatives, appeared and announced that the House of Representatives was in session, and ready to go into joint convention for the election of certain territorial officers.

The members of the Council, preceded by their President, repaired to the Hall of Representatives, and took their seats on the right and left of the Speaker.

The convention proceeded to the election of University Land Commissioner, Messrs. Richardson and Peebles acting as Tellers.

The whole number of votes cast was 30, of which

N. Huber received	- - - - - - - -	25
R. Irwin "	- - - - - - - -	5

N. Huber, having received a majority of the votes cast, was declared duly elected University Land Commissioner.

The convention proceeded to the election of three commissioners to erect a Penitentiary, Messrs. Phelps and Jackson acting as Tellers.

The whole number of votes cast was 30, of which

W. S. Ladd received	- - - - - - - -	29
D. H. Belknap "	- - - - - - - -	30
A. D. Fitch "	- - - - - - - -	30
R. Thompson "	- - - - - - - -	1

W. S. Ladd, D. H. Belknap and A. D. Fitch, having each received a majority of the votes cast, were declared duly elected Penitentiary Commissioners.

The convention having finished the business for which it had assembled, dissolved, and the members of the Council returned to their chamber.

On motion, Council adjourned.

TUESDAY, JANUARY 31st, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott and Mr. President.

Absent—Mr. Simpson.

Mr. Kelly, from the Committee on Engrossed Bills, reported as truly engrossed, C. B. 69, a bill to re-apportion the members of the Legislative Assembly.

Mr. Phelps, from the Committee on Military Affairs, to whom was referred H. B. 96, a bill to organize the militia, reported the same back with a recommendation that it do not pass.

On motion, the report of the committee was adopted.

Mr. President announced that he had signed the following bills and resolutions:

H. B. 63, an Act to incorporate the Willamette Railroad Company.

H. B. 44, an Act to locate a territorial road from Lafayette to Corvallis.

H. B. 80, an Act to incorporate the Oregon City Water Company.

H. B. 79, an act to locate a territorial road from Salem, *via.* Washington Bute, to Santiam.

H. B. 31, an act to establish Corvallis Seminary.

H. B. 90, an act relating to the county seat of Coos county.

H. B. 41, an act relating to the assessment and collection of taxes.

H. J. R 37, relative to the decisions of the Supreme Court.

H. J. R. 38, relating to the first appropriation for a state-house.

H. J. R. 33. against a division of the Territory.

H. J. R. 31, relating to a mail route from Salem to Eugene City.

H. J. R. 35, relating to binding archives and laws.

H. J. R. 15, asking for the establishment of land offices in Oregon.

H. B. 88. to compensate Sheriffs for conveying prisoners to the Penitentiary, was read a first time, and, on motion of Mr. Kelly, laid on the table.

H. B. 57, relating to Sheriffs, was read a second time, rules suspended, the bill read a third time and passed.

H. B. 74, to incorporate Willamette Lodge, No. 2, was read a second time. On motion of Mr. Kelly, the word "circuit" was struck out and the word "district" inserted. Ordered to a third reading to-morrow.

H. B. 93, to provide for the appointment of a Territorial Librarian and define his duties, was read a second time, rules suspended, the bill read a third time and passed.

H. B. 85, to view a road from Smith's River to the Willamette Valley, was read a third time and passed.

C. B. 69, to re-apportion the members of the Legislative Assembly, was read a third time. The question being, shall the bill pass? Mr. Powers called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Humphrey, Kelly, Phelps, Scott and Mr President—6.

Those who voted in the negative are Messrs. Powers and Richardson—2.

Absent—Mr. Simpson.

So the bill was passed.

H. J. R. 41, relating to the payment of the Committee appointed to examine the condition of the Penitentiary, was read a third time and passed.

H. B. 94, to locate a territorial road from Burlington to inter-

sect with the Corvallis and Estus' road, and C. B. 79, to locate a territorial road from Eugene City to Scottsburg, were read a third time and passed.

C. B. 74, to create and organize Multnomah county, and C. B. 73, to change and define the boundary line between the county of Clackamas and the counties of Washington, Yamhill and Marion, were, on motion, postponed to the afternoon.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed C. Bills 13, 32 and 60, and they are sent to the House in which they originated; also that the House has signed H. B. 97, an act to provide for the election of Sheriff in Jackson county; H. B. 99, relating to school funds in Clackamas county; H. B. 100, making appropriations for the expenses of the Legislative Assembly; H. B. 101, relating to county seat of Polk county; also, H. J. Resolutions 44, 45, 46 and 47; also C. Bills 75, 76, 77 and 78, C. J. Rs. 2 and 14; also that the House has passed H. B. 65, with the accompanying amendments, in which the Council is requested to concur; also that the House has concurred in Council amendment 5 to H. J. R. 40, and H. B. 69; and its amendments, 1, 2, 3, 4, 6 and 7 to H. B. 83, and refuse to concur in amendment 5, and that Messrs. Peebles and Elkins have been appointed a Committee of Conference relative to H. B. 47."

On motion of Mr. Fulkerson, Council reconsidered their vote on amendment 5 to H. B. 47, and receded from said amendment.

H. B. 83, to incorporate the Oregon and Calfornia R. R. Company, having been returned from the House with notice that the House refused to concur in Council amendment 5, on motion of Mr. Kelly, Council receded from the amendment.

C. B. 65, to regulate the fees of certain officers and other persons, having been returned from the House with amendments, the amendments were concurred in.

H. B. 97, to provide for the election of Sheriff in Jackson County, was read a first time, rules suspended, and the bill read a second time. On motion, the rules were further suspended, the bill read a third time and passed.

H. B. 99, to authorize the County Commissioners of Clackamas county to distribute school funds, was read a first time, rules suspended, and the bill read a second time. On motion, ordered to a third reading to-morrow.

H. B. 100, to make appropriations for defraying the expenses of the Legislative Assembly, was read a first time, rules suspended, and the bill read a second time. On motion, the rules were further suspended, the bill read a third time and passed.

H. B. 101, relating to the county seat of Polk county, was read a first time, rules suspended, and the bill read a second time.

On motion, the rules were further suspended, the bill read a third time and passed.

H. J. R. 44, relating to first appropriation for State-House was read and adopted.

H. J. R. 45, relating to procuring safes for Territorial Auditor and Treasurer, was read a first time, rules suspended, and the resolution read a second time. The rules being further suspended, the resolution was read a third time and passed.

H. J. R. 46, relative to further appropriations for public buildings, was read and adopted.

H. J. R. 47, for the relief of Joseph Hunsucker, was read a first time, and the rules being suspended, was read a second time. On motion, the rules were further suspended, the resolution read a third time and passed.

Mr. Fulkerson offered a resolution appropriating fifty dollars to John Gould, Doorkeeper of the Council. Mr. Powers moved to amend the resolution by allowing one hundred dollars to the Enrolling Clerk of the Council for extra services.

The amendment was rejected, and the question recurring on the adoption of the resolution was decided in the affirmative.

Mr. President announced that he had signed C. B. 32, an act relating to the support of the poor.

C. B. 60, an act to regulate proceedings in suits in Equity.

C. B. 13, an act relating to crimes and misdemeanors.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed H. Bills, 89, 60, 76, 72, 40, and 77, and C. Bills, 30 and 40, and H. J. Resolutions, 30 and 36, and C. J. R. 12; also that H. B. 102 has passed the House, and it is transmitted for concurrence; also that C. Bills 72 and 80 have passed the House, and C. J. R. 35, has passed with the accompanying amendments, in which the Council is requested to concur.

H. B. 102, to prevent negroes and mulattoes from coming into this Territory, was read a first time, rules suspended, and the bill read a second time.

Mr. Kelly moved that the bill be indefinitely postponed. The yeas and nays were ordered.

Those who voted in the affirmative are Messrs. Kelly, Powers, Richardson and Mr. President—4.

Those who voted in the negative are Messrs. Fulkerson, Humphrey, Phelps and Scott—4.

So the motion was lost.

Mr. Fulkerson moved that the bill be read a third time to-day, which motion was lost.

On motion of Mr. Richardson, the bill was laid on the table.

C. J. R. 15, having been returned from the House with amendments, the amendments were severally concurred in.

Mr. President announced that he had signed the following bills and resolutions:

H. B. 89, an act to repeal the exclusive ferry privilege conferred on James B. Stephens.

H. B. 77, an act to locate a territorial road from Coos Bay to Jacksonville.

H. B. 91, an act to incorporate Lafayette Lodge, No. 3, of F. & A. Masons.

H. B. 76, an act to amend an act to locate a territorial road from Portland, to intersect with the Oregon City and Salem road.

H. B. 72, an Act to incorporate the City of Portland.

H. B. 60, an Act relating to counties.

C. B. 40, an Act relating to estrays and to property lost and unclaimed.

C. B. 30, an Act relating to elections and the mode of filling vacancies in office.

C. J. R. 12, to appoint a committee to report what laws shall not be repealed.

H. J. R. 36, relating to the Penitentiary Commissioners.

H. J. R. 30, relating to a mail route from Eugene City to Youcalla.

Mr. Powers, from the Committee on Enrolled Bills, reported the following bills truly enrolled:

C. B. 71, an Act for taking the census of Oregon.

C. B. 59, an Act for the relief of A. R. Flint and others.

C. B. 43, an Act to regulate the interest on money.

C. J. R. 13, relating to a joint convention of the two Houses; and

C. M. 2, relating to the expenses of the Provisional Government.

On motion, Council adjourned.

Afternoon Session.

Council met pursuant to adjournment.

On motion, Council receded from their first amendment to H. B. 38, a bill to create a school district in Oregon City.

On motion of Mr. Kelly, the vote was re-considered, and Council refused to recede.

C. B. 73, to define the boundary line between the county of Clackamas and the counties of Washington, Yamhill and Marion, was read a third time.

The question being on the final passage of the bill, Mr. Humphrey called for the yeas and nays. Those who voted in the affirmative are Messrs. Humphrey, Kelly, Powers and Scott—4.

Those who voted in the negative are Messrs. Fulkerson, Phelps and Mr. President—3.

So the bill was passed.

C. B. 74, to create and organize the county of Multnomah, was read a third time and passed.

Mr. Kelly, by leave, introduced a bill, C. B. 80, to appoint certain officers for Clackamas county, which was read a first time, rules suspended, and the bill read a second time. On motion, the rules were further suspended, the bill read a third time and passed.

Mr. Powers, from the Committee on Enrolled Bills, reported as truly enrolled, C. B. 77, an act to repeal all acts heretofore passed, with certain exceptions.

C. B. 80, an Act to change the name of Josiah W. Lingenfelter.

C. B. 72, an Act to incorporate the Cincinnati Railroad Company.

C. B. 76, an Act to locate a territorial road from Corvallis to Lafayette.

C. B. 75, an Act to locate a territorial road from Salem *via.* Takinah, to Eugene City.

C. B. 78, an Act to locate a territorial road from West Tualiton Plains to Rainier.

C. J. R. 2, relating to a military road from Myrtle Creek to Scottsburg.

C. J. R. 14, prescribing the mode of printing and publishing the laws of Oregon.

C. J. R. 15, relating to appropriations of land for railroad purposes.

Mr. Scott, from the Committee on Counties, to whom was referred H. B. 80, a bill to locate the southern boundary of Douglass county, reported the same back with the recommendation that it do not pass.

The report of the committee was adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that Messrs. Cartee and Elkins, have been appointed a Committee of Conference, relative to H. B. 38, and that the House has passed C. B. 69, C. B. 79 and H. J. R. 48."

On motion, Council adjourned.

WEDNESDAY, FEBRUARY 1st, 1854.

Council met pursuant to adjournment.

Present—Messrs. Fulkerson, Humphrey, Kelly, Phelps, Powers, Richardson, Scott and Mr. President.

Absent—Mr. Simpson.

Journal was read.

Mr. Kelly moved to appoint a Committee of Conference on the disagreement between the two Houses on H. B. 38, a bill to

create a school district in Oregon City, which motion prevailing, Messrs. Kelly and Phelps were appointed the c mmittee.

H. B. 95, to incorporate the Willamette Lodge, No. 2, was read a third time and passed.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed to inform you that the Speaker of the House has signed C. M. 2, C. J. R. 13, and C. Bills 43, 71 and 59."

Mr. President announced that he had signed—

C. B. 59, an Act for the relief of A. R. Flint and others.

C. B. 71, an Act for taking the census of Oregon.

C. B. 43, an Act to regulate the interest on money.

C. J. R. 13, relating to a joint convention of the two Houses.

C. M. 2, relating to expenses of the Provisional Government.

Mr. Kelly moved to take from the table C. B. 36, relating to the granting of licenses, &c.

The motion prevailing, Mr. Kelly moved to appoint a Committee of Conference on the disagreement between the two Houses on said bill.

The motion was agreed to, and Messrs. Kelly and Powers were appointed the committee.

Mr. Powers, from the Committee on Enrolled Bills, reported as truly enrolled C. B. 69, a bill to re-apportion the members of the Council and House of Representatives.

H. J. R. 48, relating to soldiers in the Rogue River War, was read and adopted.

Council adjourned.

Afternoon Session.

Mr. Kelly, from the Joint Committee of Conference on C. B. 36, relating to the granting of licenses, &c, reported the following amendments:

1. Strike out section 5 of said bill.

2. Amend section 15 by striking out the word "one" in the seventh line, and inserting "two."

3. Strike out sections 17, 18, 19 and 20, relating to shows and exhibitions.

The report of the committee was adopted.

Mr. Kelly from the Joint Conference Committee on H. B. 38, a bill to create a school district in Oregon City, reported that the committee recommend the following amendment:

At the end of the 4th section add the following:

"*Provided*, that whenever a school-district shall be organized in Linn City, and a proportionate amount of taxation raised and paid in for the support of the school or schools, the children of said district shall enjoy all the benefits and privileges of said school, and shall be allowed to cross and recross said ferry, free

of charge, for the purpose of attending said school, the same as though they belonged to the said district."

Mr. Powers, from the Committee on Enrolled Bills, reported as truly enrolled—

C. B. 65, an Act to regulate the fees of certain officers and other persons.

C. B. 70, to locate a territorial road from Eugene City to Scottsburg.

Mr. Fulkerson moved to take from the table H. B. 102, a bill to prevent negroes and mulattoes from coming to Oregon, and called for the yeas and nays.

Those who voted in the affirmative are Messrs. Fulkerson, Humphrey, Phelps and Scott—4.

Those who voted in the negative are Messrs. Kelly, Powers, Richardson and Mr. President—4.

Absent—Mr. Simpson.

So the motion did not prevail.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed H. Bills 22, 88, 91, 93, 69, 57, 98, 85, 88, 90, 101, 100, 97 and 94, and H. J. Rs. 39, 40, 43, 42, 44, 47, 45, 41 and 46, and H. M. 5, and that the report of the Committee of Conference in reference to H. B. 38, has been adopted.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed the following bills: C. Bills 75, 80, 77, 76, 78, 64 and 72, and also C. J. Resolutions 14, 2 and 15, and they are herewith returned to the Council in which they originated.

Mr. President announced that he had signed—

C. B. 80, an Act to change the name of Josiah W. Lingenfelter.

C. B. 78, an Act to locate a territorial road from Tualiton Plains to Rainier.

C. B. 77, an Act to repeal all acts heretofore passed, with some exceptions.

C. B. 76, an Act to locate a territorial road from Lafayette to Corvallis.

C. B. 75, an Act to locate a territorial road from Salem, *via.* Takinah, to Eugene City.

C. B. 72, an Act to incorporate the Cincinnatti Railroad Company.

C. B. 69, an Act to re-apportion members of the Council and House of Representatives.

C. J. R. 15, relative to appropriations of land for railroad purposes.

C. J. R. 19, prescribing the manner of printing and publishing the laws of Oregon.

C. J. R. 2, relating to a military road from Myrtle Creek to Scottsburg.

H. B. 101, an Act to provide for relocating the county seat of Polk county.

H. B. 180, an act making appropriations for expenses of the Legislative Assembly.

H. B. 98, an Act to provide for the appointment of a Territorial Librarian.

H. B. 97, an Act to provide for the election of Sheriff of Jackson county.

H. B. 94, an Act to locate a territorial road from Burlington to intersect the Corvallis and Estus' road.

H. B. 93, an Act to create the office of Harbor-Master and define his duties.

H. B. 91, an Act authorizing the County Commissioners of Tillamook county, to locate the county seat.

H. B. 90, an Act to establish the county seat of Coos county.

H. B. 88, an Act to amend an act supplementary to an act entitled "an Act to provide for the selection of places for the location and erection of the public buildings of Oregon Territory."

H. B. 85, an Act to view a road from Smith's River to the Willamette Valley.

H. B. 87, an Act for the relief of Isaac Hutchins.

H. B. 69, an Act to incorporate the Clackamas Railroad Company.

H. B. 57, an Act relating to the office of Sheriff.

H. B. 22, an Act relating to schools and school lands.

H. M. 5, relating to land titles in Oregon.

H. J. R. 41, relative to expenses of the Penitentiary Committee.

H. J. R. 46, relative to the erection of public buildings.

H. J. R. 45, relative to procuring safes for Auditor and Treasurer.

H. J. R. 47, for the relief of Joseph Hunsucker.

H. J. R. 44, relative to State-House building fund.

H. J. R. 42, relative to increase of *per diem* of the members of the Legislative Assembly.

H. J. R. 43, relative to a joint convention.

H. J. R. 40, asking to have Empire City made a port of entry.

H. J. R. 39, relating to public buildings at the seat of Government.

On motion, Council adjourned to six o'clock, P.M.

EVENING SESSION.

Council met pursuant to adjournment.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed H. Bills 48, 83, 95, 99, 38 and 94, and C. Bills, 79 and 65, and they are transmitted for your signature; also, that the House has adopted the reports of the Committee of Conference, on C. B. 36, a bill relating to licenses, &c.

Mr. President announced that he had signed—

H. B. 38, an Act to create a school district in Oregon City.

H. B. 83, an Act to incorporate the Oregon and California Railroad Company.

H. B. 95, an Act to incorporate the Willamette Lodge, No. 2.

H. B. 99, an Act to authorize the Superintendent of Common Schools to distribute school funds in Clackamas county.

H. J. R. 48, in relation to the Rogue River War.

Mr. Kelly offered the following resolution, which was unanimously adopted:

"*Resolved*, That the thanks of the Council be presented to the Hon. Ralph Wilcox, for the able, impartial and dignified manner in which he has presided over the deliberations of the Council during the present session, and that we, as members of this body, will ever cherish a lively regard for his kind and courteous bearing towards us all."

Mr. Kelly offered the following resolution, which was unanimously adopted:

"*Resolved*, That the thanks of the Council be presented to the officers of this body, for the faithful and attentive manner in which they have performed their respective duties as officers."

Mr. President announced that he had signed—

C. B. 65, an Act to regulate the fees of certain officers and other persons.

C. B. 79, an Act to locate a territorial road from Eugene City to Scottsburg.

On motion, Council adjourned, to five minutes past midnight.

THURSDAY, FEBRUARY 2d, 1854.

On motion of Mr. Phelps, the vote adopting the report of the Committee on Military Affairs, on H. B. 96, was reconsidered.

On motion, the bill was read a third time and passed.

Mr. Powers, from the Committe on Enrolled Bills, reported C. B. 36, an Act relating to the granting of licenses, &c., truly enrolled.

Mr. President announced that he had signed H. B. 47, an Act relating to roads and ferries.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—I am directed by the Speaker of the House of Representatives, to inform you that he has signed C. B. 36, and H. B. 9[illegible], and they are herewith transmitted to the Council for your signature."

Mr. President announced that he had signed C. B. 36, an Act relating to the granting of licenses, &c., H. B. 96, an Act to organize the militia.

A message from the House by their Clerk, Mr. M'Craken:

"*Mr. President:*—The Council is informed that the House is now ready to adjourn, *sine die.*"

Mr. Kelly moved that the Council do now adjourn, *sine die;* which motion prevailing,

Mr. President addressed the Council as follows:

"*Gentlemen:*—Before declaring the final adjournment of the Council, permit me to return my sincere thanks for the kind expression of your approbation of my conduct, as presiding officer of this body. I entered upon this duty with reluctance, fearing my inability to perform the same to your satisfaction, and I feel under many obligations to you for the constant courtesy and kindness extended towards me, as well as to each other, which have thus rendered the discharge of my duty a pleasure rather than a task.

"In my experience as a legislator, I have never witnessed such an amount of legislation on so many and varied interests, with that degree of harmony and good feeling that has characterized this session, and which, I trust, is an omen of the beneficial results that may flow from it.

"In parting at this time, I can but wish that your future may be as prosperous, and that your long and arduous labors may prove highly advantageous to our country, and with strong confidence that such may prove to be the result, I now perform my only remaining duty, by declaring the Council adjourned without day."

R. WILCOX,

President of the Council.

APPENDIX.

REPORT

OF THE COMMITTEE APPOINTED TO DRAFT RULES FOR THE GOVERNMENT OF THE COUNCIL.

The Committee appointed to prepare rules for the government of the Council, beg leave to report the rules of the Council of the last session, with the following additions and amendments.

Rule 4 to be amended so as to read as follows:

"Twelve standing committees, to consist of three members each, shall be appointed at the commencement of the session, viz:—a Committee on the Judiciary, a Committee on Ways and Means, a Committee on Elections, a Committee on Education, a Committee on Claims, a Committee on Incorporations, a Committee on Counties, a Committee on Military Affairs, a Committee on Commerce, a Committee on Engrossed Bills, a Committee on Enrolled Bills, a Committee on Roads and Highways. All committees shall be nominated by the President, unless otherwise desired by the Council, in which case they shall be appointed by ballot."

Also, the following amendment to be added to the 17th rule after the word printed, viz:

"Except such as are already printed in the report of the Code Commissioners."

All which is respectfully submitted.

LEVI SCOTT,
B. SIMPSON,
JAS. K. KELLY.

RULES

FOR THE

GOVERNMENT OF THE COUNCIL

OF

OREGON TERRITORY.

RULE 1. The President shall take the chair precisely at the hour to which the Council shall have previously adjourned, and, on the appearance of a quorum, shall call the Council to order, and cause the journal of the preceding day to be read; but a smaller number may adjourn from day to day, and compel the attendance of absent members, and any two members, at any time after the hour has arrived to which the Council have adjourned, may have a call of the Council, and have the names of the absentees entered upon the journal.

RULE 2. It shall be the duty of the President to preserve order, and may speak on all questions of order in preference to any other member, rising from his seat for that purpose, and shall decide on all questions of order, subject to an appeal to the Council.

RULE 3. All questions shall be put in this form: "You who are of opinion, (as the case may be,) say *aye;* of the contrary opinion say *no*;" and in doubtful cases the President may direct, or any member may call for a division.

RULE 4. Twelve standing committees, to consist of three members each, shall be appointed at the commencement of the session, viz: A Committee on the Judiciary, a Committee on Ways and Means, a Committee on Elections, a Committee on Claims, a Committee on Corporations, a Committee on Counties, a Committee on Military Affairs, a Committee on Commerce, a Committee on Engrossed Bills, a Committee on Enrolled Bills, and a Committee on Roads and Highways. All committees shall be appointed by the President, unless otherwise desired by the Council, in which case they shall be appointed by ballot.

RULE 5. Every member, when a question is taken, shall vote, unless the Council, for special reasons, excuse him.

RULE 6. Every motion shall be reduced to writing, if the President or any member shall require it.

RULE 7. A motion to adjourn shall always be in order, unless a member is speaking, and shall be decided without debate; and no member shall leave his seat after a question of adjournment is put, until the same shall be declared to be a vote by the President, nor until the President shall have left the chair.

RULE 8. When a member is about to speak, he shall rise and respectfully address himself to the President; and when a member is speaking, no member shall pass between him and the chair.

RULE 9. The President shall preserve decorum, and if any member transgress the rules of the Council, the President shall, or any member may, call to order, in which case the member called to order shall immediately sit down, unless permitted to explain, and the Council, if appealed to, shall decide the case.

RULE 10. No member shall speak more than twice on any one question without leave of the Council.

RULE 11. When a motion is made and seconded, it shall be stated by the President, or, being in writing, it shall be handed to the chair, and read aloud by the President or Clerk, before debated.

RULE 12. After a motion is stated by the President, or read by the Clerk, it shall be deemed to be in possession of the Council; but may be withdrawn at any time before a decision or amendment, by consent of the Council.

RULE 13. While a question is before the Council, no motion shall be received, unless for amendment, for the previous question, or for postponing the main question, or to commit it, or adjourn.

RULE 14. The previous question shall be put in the words, "Shall the main question now be put?" It shall be admitted only on the demand of two members, and sustained by a vote of two-thirds of the Council; and, until decided, shall preclude all amendments, and, on debate, the main question.

RULE 15. Any member may call for a division of the question, when the same shall admit of it.

RULE 16. No committee shall sit during the sitting of the Council, without special leave.

RULE 17. The first reading of a bill shall be for information, and if objections be made to it, the question shall be, "Shall the bill be rejected?" If no objection be made, or if the question to reject be lost, the bill shall go to its second reading without a question; and the Clerk, upon the first reading, is hereby directed to have twenty-five copies of each bill, resolution, and report of select and standing committees, printed, except such as are already printed in the report of the Code Commissioners.

RULE 18. Upon the second reading of a bill, the President shall state, "It is ready for commitment or engrossment;" and, if committed, then the question shall be, "Whether to a standing or select committee, or committee of the whole?" and the Council shall determine on what day; but if the bill be ordered to be engrossed, the Council shall appoint a day to be read a third time.

RULE 19. A bill, after commitment or report thereof, may be re-committed at any time before its passage.

RULE 20. In forming a committee of the whole, the President shall leave the chair, and may appoint any member as Chairman to preside.

RULE 21. The President may at any time leave the chair and call any member of the Council thereto, who shall be President of the Council for the time being; and the President shall at pleasure resume the chair; and if the person called to the chair object, and the President insist, the question shall be decided by the Council.

RULE 22. When any motion is made for amendment of any bill or resolution, the mover's name shall be inserted in the journal.

RULE 23. The rules of the proceedings of the Council shall be observed in the committee of the whole, so far as they may be applicable.

RULE 24. No member shall be permitted to vote on any subject in which he has a direct pecuniary interest.

RULE 25. No member in the minority of any vote declared, shall have a right to move a reconsideration thereof.

RULE 26. No member shall call for the yeas and nays on any question, after the same has been declared to be a vote by the President.

RULE 27. When any petition, memorial, or remonstrance, is presented to the Council, the person presenting the same shall give a concise statement of the purport thereof, and it shall be disposed of according to its character, without reading, unless the reading thereof is required by two members.

RULE 28. No bill shall pass the Council until a third reading, nor shall any bill be read more than once in one day, unless otherwise directed by the Council.

RULE 29. If two or more members happen to rise at once, the President shall name the person who is to speak first.

RULE 30. No standing rule of the Council shall be revised or amended without one day's notice being given thereof.

RULE 31. No member shall absent himself from the service of the Council without leave is first obtained; and in case a less number than a quorum of the Council shall convene, they are hereby authorized to send the door-keeper, or any person or persons by them authorized, for any absent member or members, as

the majority of such members present shall agree, at the expense of such absent member or members, respectively, unless such excuse for non-attendance shall be made, as the Council, when a quorum is convened, shall deem sufficient.

RULE 32. It shall be the duty of the door-keeper to keep order in the lobby, and to obey orders of the Council from time to time.

RULE 33. It shall be the duty of the Chief Clerk to keep an exact journal of the proceedings of the Council, and shall, from time to time, be subject to such further orders as the Council may direct.

RULE 34. No persons, except the members of the House of Representatives, their Clerk, the Governor, Secretary of State, judges of the Supreme and Circuit Courts, Attorneys General, and members of Congress, shall be admitted within the bar of the Council during the sittings of the same, unless invited by a member.

RULE 35. On the discussion of any business which may, in the opinion of a member, require secrecy, the President shall order the lobby to be cleared, and during the discussion of such motion, the doors shall remain shut, unless otherwise directed by the Council.

RULE 37. Any member voting in the minority on any subject, and protesting against the vote of the Council, may have his protest entered on the journal, if the language and tenor of such protest would have been admissible in the discussion of the subject.

RULE 38. The following method shall be the order or rule of doing business in the Council, to wit:

Petitions, memorials, and remonstrances.
Reports from standing committees.
Reports from select committees.
Propositions and motions.
Second reading of bills, &c.
Engrossed bills read a third time.
Bills, reports, and other business lying on the table.
Bills and other business from the House.
Other business of the Council.
The orders of the day.

JOINT RULES.

RULE 1. While bills or joint resolutions are on their passage between the two Houses, they shall be on paper, under the signature of their clerks respectively.

RULE 2. After a bill or joint resolution shall have passed both Houses, it shall be duly enrolled on paper, and the Clerk of the House where it originated, shall indorse on the back thereof the House in which it originated, under which he shall place his signature.

RULE 3. Every bill or joint resolution, after being enrolled, shall be examined by the Joint Committee on Enrolled Bills, consisting of at least two members from each House, who shall compare the same with the engrossed bills, and correct any errors they may discover, so as to make it agree therewith, and make their report forthwith to their respective Houses.

RULE 4. Every bill or joint resolution reported to have been duly enrolled, shall be first signed by the Speaker of the House of Representatives, who shall send the same to the Council, then by the President of the Council.

RULE 5. All bills and joint resolutions shall be signed by the Speaker of the House of Representatives and the President of the Council, in their Houses respectively, when in session, which shall be carefully noted on the journals of each House.

RULE 6. When any paper or papers, proper to be acted upon by both Houses, shall come before either, the House before which such paper or papers are laid shall, after acting thereupon, lay it or them before the other House.

RULE 7. In case of disagreement between the two Houses, after passing the usual formalities, each House shall appoint, at the request of the other, two members to act as a committee of conference, which committee shall meet, endeavor to compromise the matter in dispute, and report to each House the proceedings thereon.

RULE 8. In all cases where the Sergeant-at-Arms of either House, by reason of official engagements, or other causes, be unable to execute the commands or process of the House of which he is an officer, it shall be the duty of the Sergeant-at-Arms of the other House to execute such commands, together with such

process as may be directed to him by the presiding officer thereof.

RULE 9. When a message is sent to the Council or House of Representatives, it shall be announced at the door by the Sergeant-at-Arms or Door-Keeper, and shall be respectfully communicated to the chair by the person by whom sent.

RULE 10. Messages shall be sent by such officers of the Council or House, as the President of the Council or the Speaker of the House of Representatives may designate for that purpose.

RULE 11. No bill which shall have passed one House shall be sent for concurrence to the other, on either of the last two days of the session.

RULE 12. The President of the Council and the Speaker of the House, shall cause the Clerk of each House to number the bills and resolutions originating in their respective Houses.

REPORT

OF THE COMMISSIONERS APPOINTED TO SUPERINTEND THE ERECTION OF PUBLIC BUILDINGS AT THE SEAT OF GOVERNMENT, MADE DECEMBER 22D, 1853.

To the Honorable Council and House of Representatives of the Territorial Assembly:

The commissioners appointed by an act of your Honorable Body, passed January, 1853, to superintend the erection of public buildings at the seat of Government, report that having severally complied with the requirements of said Act, by filing in the office of the Secretary of the Territory, their respective bonds in the sum of ten thousand dollars, and having received from the former commissioners, the books and papers connected with the business of their office, they held their first meeting in the town of Salem, on the 25th day of February, 1853.

In entering upon the discharge of their duties, your commissioners found many questions arising in reference to the proposed work of building a State-House, which were attended with no little perplexity and embarrassment.

In determining the size and plan of a structure, which both in its external appearance and its internal arrangement should accord with proper ideas of fitness, convenience and architectural design; in deciding upon the material of which the walls of the building should be constructed, having reference as well to the expediency of the work, under the present necessities of the territory, and its relation to the source of the building fund, as to

the permanency and future economy of the structure, which are dependent altogether upon the strength, durability and quantity of material; in their efforts towards the speedy progression of the work, in view of the obstacles which beset the action of the former commissioners, and the absence of and vexatious delay in receiving the funds appropriated by Congress for this object; and in the entire discharge of their duties as commissioners, they have endeavored to consult the present best interest of the people of this Territory, and of your Honorable Body, and also the future wants of a more populous state, and an increased Legislative Assembly; and if their action hereon, as to the proposed plans, the materials and efforts to the work of erecting the State-House of Oregon, should fail to receive your entire approval, it will be attributable to an error of the head, rather than the heart.

Plans.

The site selected by the former commissioners, being block No. 84, in the town plat of Salem, and which had been donated by Dr. W. H. Wilson and his wife, for the purpose of the erection of the public buildings thereon, whose bond to that purport is on file in the office of the board, was already approved by your body.

Upon determining the plans for the proposed State-House, in reference to size, material and arrangement, the commissioners had to consult the requirement of rooms for the two branches of the Legislative Assembly, the supreme and other federal courts, the Executive and officers of the Territory, a library, the clerks and chief committees of the Assembly, and at the same time hold a careful reference to the aggregate cost of the structure, so as not to hazard a reasonable expectation of its timely completion.

As the act appointing your commissioners, and defining their duties, contemplates a future appropriation, by Congress, to the erection of the buildings, there arose the necessity of so arranging the plans, that they could be carried out in full, or abridged according to the amount of additional appropriations.

The largest amount that could from precedents and the obvious necessities of our territory be reasonably expected, your body is well aware would fall short of providing all the essential requisites pertaining to a complete government building, for even the present wants of the Legislative and Executive Departments of the Territory. In this particular, the board found a greater obstacle to their ready action than in any other.

It was deemed eminently desirable that the buildings erected by your commissioners, should in exterior appearance and interior arrangement, have a completeness of finish already adapted to the objects for which it was built; and at the same time be so constructed that as the growing interests of a state require addi-

tions or extensions thereto, they can be made in a manner which will preserve the architectural design intact, and promote the economy of the entire edifice.

The plan of the building already commenced by your commissioners, is for a plain cut stone edifice of the Ionic order, 50 by 75 feet, with a portico of 10 feet, and four Ionic columns on the front or west end, and with two stories of 19 and 15 feet in height respectively, and an entablature of 8 feet in height; the whole upon a foundation of rouble and ashler worked stone, rising to the top of water table, 4 feet above the surface of the ground. The first story comprising a main hall or entrance 15 feet wide, extending across the building, with a stairway to second story; a House of Representatives Hall, 36 by 46 feet, with three entrances; a federal court room, 20 by 27 feet; and an office for the Executive or Secretary, 18 by 20 feet. The second story comprising the main hall and stairway; a Council chamber, 26 by 36 feet; a library room, 20 by 36 feet; a room for clerks, and three committee rooms.

All which will more particularly appear by reference to accompanying plans marked A. and B., herewith submitted to your Honorable Body.

Materials.

The commissioners believing, as well from the Act contemplating further appropriations from Congress, that it was not the intention of the Legislative Assembly, as that the true interests of the Territory forbade that a State-House should be erected of wood; but inferring on the contrary, that it was the wish and intent of the Assembly, for their commissioners to erect a permanent and substantial edifice, of a material combining the qualities of strength, durability and elegance, the walls of which should alike be most impervious to the long rains of this climate, and least liable to fracture, crumble and waste, in the event of a fire consuming a part or all of the internal wood-work; having before them examples of the wasting, crumbling and disintegration of walls made of brick, which have been for a few years exposed to the humid atmosphere and long rains of Oregon winters; having, moreover, upon an examination of the country in the vicinity of the capitol, made expressly for the purpose, discovered within a few miles of the town of Salem, an inexhaustible quarry of very fine compact sand stone, and believing where, in the material for the erection of all public buildings, great durability, safety and fitness are sought for, that *the best materials are always the cheapest*, your commissioners unanimously agreed upon the plan of constructing the public buildings of stone.

The quarry from which the stone are to be selected is of a compact, uniform and fine grit, lying in strata more or less irre-

gular, exposed in part upon a steep hill side towards the south east, from whence flow considerable springs of water; the firm, hardened and unfriable state of the exposed strata, where thus subjected to the successive actions of hot summer suns and winter rains, amply proves the durability and disintegrating quality of the stone.

The stratification of this quarry is variegated in color from a deep sky blue to light buff or even white, but it is mostly of the light buff color, as seen in the stone of which the ashler blocks in the foundation are formed.

This stone when first lifted from the quarry is found to be easily worked or tooled, and hardens rapidly on exposure to the sun; several blocks of large size have been taken out, one of which forming a door sill two and a half feet wide, one foot thick and nine feet long, may be seen in the foundation work.

It is proposed to build the entire external walls of ashler blocks of this stone, rubbed down smooth, neatly jointed in regular courses of equal thickness, and with the joints in alternate courses in vertical lines for the entire height of wall; the first story of 19 feet external height to be two feet thick, and the second story of 15 feet to be 18 inches thick. The whole to be constructed with bond or through stone, as shown in accompanying plans marked C. and D. The arrangement of the interior, the doors and windows, the trussed girders for self-supporting floor, the antaes in the wall and pedestals for same, will more particularly appear from the plans herewith submitted.

Present State of the Work.

In entering upon the discharge of their duties, the commissioners found that a contract had already been entered into by and between the former commissioners and Charles Bennet, Esqr., for the construction of the stone foundation of a State House, and that the contractor had performed some work under the same. Your commissioners, therefore, in order to facilitate the progress of the work, and, moreover, doubting the propriety of annulling any contract already entered into in good faith, although such power and authority was, by the act appointing them, conferred upon the commissioners, proceeded to observe and on their part perform the said contract, altering the terms thereof only so much as was requisite to conform to the provisions of the law for drawing drafts upon the Governor of the Territory, as the work progressed, instead of the payment of money directly by the commissioners to the contractor, as was provided under the former board; and further, to adopt the quantity of work in said contract to the size of a building as agreed upon by your commissioners.

The work of the foundation, as it now stands, was completed on the 25th day of July, 1853.

In excavating trenches for the wall, it was found necessary from the nature of the soil to dig deeper than was originally intended; excavations were made from three to four feet in depth, and until a firm bed of compact undurated clay and gravel was found throughout the whole external trenches and the main cross trenches. The wall below the surface of the ground is built of the common basalt rock, found in the immediate vicinity of Salem.

The lower or base course is constructed of large flat stones, each block at least three feet long and of proportionate width and thickness, lain crosswise edge to edge, under the entire length of outer walls and main cross walls; from thence to the lower edge of the floor joists, or three feet above the surface of the ground, the outer walls are two and a half feet thick, thence to the top of water table two feet thick.

The pilasters for the bases of antaes project from the main wall ten and a half inches for the entire height of wall, and present each a front of five feet in width. The main cross and party walls to support joists of lower floor are all two feet thick, and the whole is lain in well wrought mortar.

The measurement of these foundation walls amounts to 438 perch and twelve and a quarter feet, which at $21 00 per perch, the contract price, made the sum due contractor $9,213 87; of this sum $300 was retained by the Board for the future bevelling of the water table, and for replacing some defective stone; for the balance, $8,912 87 drafts were drawn upon the Governor, from time to time, as the work progressed, and duly receipted for by the contractor.

Your commissioners further proceeded in accordance with the law, to advertise for sealed proposals for the building of the walls of the State-House of stone; and on the 5th day of May, they awarded the entire stone-work to W. C. Griswold, (he being the lowest accepted bidder,) at $30 per perch for the furnishing of all materials, and the construction of the entire stone walls.

At the time of awarding the work aforesaid, it was the intent and terms of the contract thereupon entered into by the commissioners and the contractor, that so much of the work as could be done within the appropriation heretofore made by Congress, should be progressed with and fully performed on or before the first day of December, 1853.

But the failure of the receipt by the Executive, of the money appropriated for the work, and the consequent embarrassment and uncertainty which hung over the whole matter, until the late arrival of the Governor, John W. Davis, with the fund, of all which your Honorable Body are fully cognizant, put an entire stop to the prosecution of the work.

Expenditures and Estimates.

The commissioners have incurred the expenses, and audited and allowed the accounts contained in the following schedule:

Order of former commissioners for drafting plans,	$250 00
Bill " " " " printing,	82 00
	$332 00

Amount to Charles Bennet, contractor on foundation,	$8,913 87
" for advertising and printing,	50 00
" " drafting plans and specifications,	100 00
" " clearing away rubbish and casing wall,	30 00
" to Alvis Kimsey, services as commissioner,	70 00
" " A. W. Ferguson, " " "	140 00
" " E. M. Barnum, " " " and superintendent,	305 00
	$9,608 87

In making the comparative estimates of the expenses of building a State-House, either of brick or stone, your commissioners have before them as the most reliable data, the various bids made to, and on file in the office of the Board.

The entire cost of stone walls, according to the present plan of building, omitting entablature and cornice of the same material, $30,000.

The entire cost of brick walls, for same size and plan, otherwise, $25,500.

The floors, roof and entablature of wood in either case of brick or stone walls, $3,500.

The total estimates of expenditures for completing the State-House, with entablature and cornice of stone, portico and Ionic columns, and cross walls, carried to roof, to support a dome, $65,000.

And throughout their plans and arrangements, it has been the object of the commissioners to so construct and erect the walls of stone, as to render practicable at any time hereafter, as the wealth of the State would indicate, a removal of the roof and entablature of wood, and its final completion of stone, slate and fire-proof materials, surmounted by a dome, rising to such a height and proportions, as would render the State-House of Oregon, a monument of credit to the new State, and not a crumbling memorial of the folly of its artificers.

E. M. BARNUM,
A. W. FERGUSON,
ALVIS KIMSEY.
} *Commissioners.*

COMMUNICATION.

RELATIVE TO BINDING OF THE OREGON ARCHIVES.

To the Legislative Assembly of Oregon:—

The undersigned represents, that a law enacted at the last session of the Assembly, providing for the publication of a volume to be styled "the Oregon Archives," directs the public printer to cause said work to be bound in boards; that there are at present no facilities in this Territory for executing that description of binding; and that the statute can only be complied with by sending the work in sheets to San Francisco, which would involve an expense of between two thousand and three thousand dollars. He, therefore, respectfully suggests, that the printer be instructed by your body, to bind the Archives in paper.

ASAHEL BUSH.

Salem, January 23d, 1854.

REPORT

RELATIVE TO SELECTION AND LOCATION OF UNIVERSITY LANDS.

To the Honorable the Legislative Assembly of the Territory of Oregon: In conformity with the provisions of an Act, entitled "an Act to provide for the selection and location of two townships of land, to aid in the establishment of a University;" the Commissioners appointed by and in conformity to the provisions of an amendment to the said Act, beg leave to report: "That they have selected and informed the Surveyor General, of the selection of the following sections and parts of sections of land, or so much of the same as was unclaimed by settlers at the time of their selection—to wit:

"In township 8 south, range 4 west, sections 1, 2, 10, 11, 14, 15, 25, 26 & 27; (in township 9 south, range 4 west, sections 1 7, 8 & 12;) in township 9 south, range 3 west, sections 6 & 7; township 10 south, range 4 west, sections 1, 2, 9, 10, 17, 29 & 30; township 11 south, range 4 west, sections 6, 21, 28, 29 & 31; township 9 south, range 5 west, sections 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 33, 34 & 35; township 10 south, range 5 west, sections 1, 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 18 & 19; the unclaimed part of an island in townships, ranges 4 & 5, 12 south; [township 11 south, range 5 west, sections 3, 5, 6, 7, 8 and west half of section 9;] township 12 south, range 5 west, sections 13, 14, 23, 24, 25, 26, 27, 33, 34, 35; township 13 south, range 5

west, sections 3, 4, 8, 9, 10 & 15; township 12 south, range 4 west, section 31; township 13 south, range 4 west, section 6; township 14 south, range 5 west, section 7; township 14 south, range 5 west, sections 1, (west half of 11,) 12, 24 & 25; township 15 south, range 5 west, sections south half of 18, north half of 19, 22, 23, 24, 25, 26, east half of 27, west half of 28, 33, 34, 35; township 10 south, range 6 west, sections 19, 23, 24, 25 & 35.

The commissioners being unable to ascertain the amount of vacant land in the foregoing sections, have simply selected all the unclaimed parts of them, leaving the amount to be ascertained by the Surveyor General at some future time, which, in many instances, will probably prove to be but small parts of them.

JACOB MARTIN,
SIMEON HAGER,

MARYSVILLE, *December 3d*, 1853. *Commissioners.*

RESIGNATION.

To the Hon. President of the Council of Oregon Territory:

SIR,—The undersigned begs leave, through you, to tender to the Legislative Assembly of the Territory of Oregon, his resignation as one of a Board of Commissioners to erect a Territorial University; he having been appointed on that Commission by an Act of the Legislative Assembly, passed January 20th, 1853.

Yours with respect,

LUCIUS W. PHELPS.

SALEM, MARION CO., O. T., *December 14th*, 1853.

REPORT

OF THE JOINT CODE COMMITTEE.

The Committee of five on the part of the Council, appointed to confer with a like Committee on the part of the House, to consider and report to their respective Houses in what manner the report of the commissioners elected to prepare a code of laws for the Territory of Oregon, should be entertained and considered by the Legislative Assembly, beg leave to report that such joint committee have had the subject under consideration, and that they deem it most advisable that a Joint Select Committee be

appointed, to consist of five members, on the part of the House, and four members, on the part of the Council, whose duty it shall be to take up the report of the Code Commissioners, and consider the same in such order as they shall think best, and report the same from time to time, to the Council, in as expeditious a manner as may be, with or without amendments, as in their judgment shall be deemed most proper, and that the Council shall take exclusive original action on said reports; and further, that said Joint Committee be instructed to confer in their deliberations, upon any particular portion of the report of said Code Commissioners, with the appropriate Standing Committee of each House, under whose notice such particular subject should properly come, previously to making any report to the Council, as aforesaid, in relation to such subject.

All which is respectfully submitted.

JAMES K. KELLY, *Chairman.*

REPORT

OF THE AUDITOR OF PUBLIC ACCOUNTS, MADE DEC. 12TH, 1853.

To the Honorable, the Legislative Assembly of the Territory of Oregon:—

In conformity of the provisions of the Statute in such case made and provided, the Auditor of Public Accounts begs leave most respectfully, to submit the following report, showing:—

1st. The amount of expenditure for the last fiscal year.

2d. A full and detailed statement of the public debt.

3d. Estimate of the revenue and expenditure for the next succeeding year.

4th. A tabular statement, showing separately the whole amount of each appropriation of money made by law, the amount paid under the same, and the balance unexpended.

5th. A tabular statement, showing separately the amount of money received into the Treasury, from all sources, the preceding fiscal year; the amount received from each county, and the source of revenue in each county.

1st. Amount of Expenditure for last Fiscal Year.

1853, Feb. 1st,	Paid J. D. Boon, Treasurer,	$90 64
" "	" W. H. Wilson, for official services as Auditor of Public Accounts,	200 00

1853, Apr. 4th,	Quincy A. Brooks, for official services as prosecuting Attorney in 1st Judicial District,	$225	00
" " 11th,	W. H. Wilson, for official services as Auditor of Public Accounts,	100	00
" May 5th,	W. H. Wilson, for official services as Auditor of Public Accounts,	100	00
" " 20th,	Yam Hill County, for expenses incurred in keeping Annanias McCormick under sentence of imprisonment in the Territorial Penitentiary,	564	75
" June 8th,	L. F. Grover, for official services as prosecuting Attorney of 2d Judicial District, from Dec. 1st, 1852, to July 1st, 1853,	250	00
" July 2d,	W. H. Wilson, for past expenditures of bringing the remains of the Hon. Saml. R. Thurston to Oregon,	72	00
" " 22d,	L. F. Grover, for official services as Auditor of Public Accounts from April 1st, 1853, to Aug. 1st, 1853,	100	00
" Aug. 20th,	J. D. Boon, for Sign of Treasurer's office, and books for use of said office,	22	00
" Sept. 18th,	W. H. Bennett, for relief of Washington County,	98	33
" Nov. 4th,	L. F. Grover, for official services as Auditor of Public Accounts, from Aug. 1st, 1853, to Dec. 1st, 1853,	100	00
" " 15th,	Benton County, relief appropriation,	630	32
" Dec. 3d,	Alexander Campbell, for official services as prosecuting Attorney, 3d Judicial District, from Feb. 19th, 1853, to Aug. 21st, 1853,	265	75
" Dec. 6th,	W. H. Bennett for relief of Washington County,	$500	00
" " "	J. D. Boon for official services as Treasurer of Oregon for last fiscal year.	90	72
" " 10th,	Washington County,	150	00
	Total amount,	$3,359	51

2d. *A Full and detailed Statement of the Public Debt.*

Warrants for the amount of some five thousand dollars have been drawn by a former Auditor, which now remain unpaid in the hands of individuals. Many of those have been presented to

the Treasurer, and payment refused on the ground that they were drawn for claims not recognized by law. But for a detailed statement of which, reference may be had to last year's report from this office.

Balance due Washington county on amount found due under appropriations by Act of Legislative Assembly, January 28th, 1853, (see Session Laws, 1852–3, p. 19.)	$602 87
Due F. J. Holland for official services as Auditor of Public Accounts, from March 24, 1851, to February 1, 1852.	252 50
Total amount	$855 37

It may be added that under Act of Legislative Assembly of January, 1853, (see Session Laws of 1852–3, p. 18,) the Territory is liable to Polk county, to any amount within five hundred dollars, to be ascertained on the presentation of the proper accounts and vouchers, by the County Commissioners of said county.

Also the amount of $250 each, to the prosecuting attorneys of the First, Second and Third Judicial Districts, for the last semi-annual payment of salary, not strictly due until the first day of January, 1854, but for services rendered during the present fiscal year.

3d. *Estimate of Revenue and Expenditure for next Fiscal Year.*

Benton county,	$200 00
Clatsop "	125 00
Douglas "	200 00
Jackson "	700 00
Lane "	300 00
Linn "	450 00
Marion "	700 00
Polk "	350 00
Washington "	700 00
Yamhill "	450 00
Umpqua "	200 00
Total	$4,375 00

Estimated Expenditures.

Salaries of Prosecuting Attorneys,	1,500 00
Expenses of Treasurer's Department,	500 00
Total	$2,000 00

To this may be added contingent expenditures under special appropriation, the amount of which cannot be estimated.

The foregoing estimates are made upon the basis of the present rates of taxation, and amount of salaries allowed by law.

4th. *The Whole Amount of Appropriations made by Law, during the last Fiscal Year.*

For relief of Washington county,		$1,250 00
" " " Benton "		630 32
" " " Polk "		500 00
" " " Yamhill "		500 00
		2,880 32
Amount paid on same,		1,850 44
Balance unexpended,		$1,029 88

5th. *Amount received into the Treasury during the last Fiscal Year.*

From Umpqua county,	$ 93 25
" Washington "	698 33
" Thurston "	181 32
" Benton "	278 84
" Marion "	466 05
" Yamhill "	300 00
" Clackamas "	600 00
" W. T. Matlock,	260 50
	$2,878 85
Amount in hand of Treasurer at close of last fiscal year,	316 29
Total	$3,195 14

RECAPITULATION.

Amount remaining in Treasury at the commencement of past fiscal year,	316 29
Amount received into Treasury during past fiscal year,	2,878 85
Total	$3,195 14
Amount paid out during same period,	3,359 51
Balance in favor of Treasurer,	$164 37

All of which is respectfully submitted,

L. F. GROVER, *Auditor.*

REPORT

OF THE TERRITORIAL TREASURER.

To the Honorable the Legislative Assembly of the Territory of Oregon:

In conformity to the provisions of law, the undersigned, Treasurer of said Territory, begs leave to submit the following Report, showing the receipts and expenditures of the Department since the last annual report.

Receipts.

Dec. 7th, 1852.	To balance in the Treasury at the date of the last annual report,	$1,797	61
" 30th, "	Received of Thomas Monteith, County Treasurer of Linn county, Ter. Rev. for 1850,	152	85
" " "	Received of Thomas Monteith, Treasurer of Linn county, Ter. Rev. for Linn county, for 1851,	164	62
" " "	Received of Thomas Monteith, Treasurer of Linn county, Ter. Rev. for 1852,	180	75
Jan. 28th, 1853.	Received of B. F. Nichols, Sheriff of Polk county, Ter. Rev. for 1852,	168	65
Feb. 7th, "	Received of Treasurer of Umpqua county, Ter. Rev. for 1852,	93	25
Mar. 4th, "	Received of Sheriff of Washington county, Ter. Rev. for 1852,	100	00
Apr. 4th, "	Received of Treasurer of Thurston county, Ter. Rev. for 1852,	181	32
" 11th, "	Received of Treasurer of Benton county, Ter. Rev. for 1851,	124	47
" " "	Received of Treasurer of Benton county, Ter. Rev. for 1852,	154	37
May 14th, "	Received of Sheriff of Marion county, Ter. Rev. for 1852,	66	05
" 20th, "	Received of the County Clerk of Yamhill county, Ter. Rev. for 1852,	300	00
Jan. 15th, "	Received of Treasurer of Clackamas county, Ter. Rev. for 1852,	419	56
July 21st, "	Received of Sheriff of Clackamas county, Ter. Rev. for 1850,	13	00
Aug. 17th, "	Received of Sheriff of Clackamas County, Ter. Rev. for 1851,	168	00
" " "	Received of Sheriff of Washington county, Ter. Rev. for 1852,	98	33

Dec. 15th, 1853.	Received of Sheriff of Marion county, Ter. Rev. for 1853, - -	$400	00
" 6th, "	Received of Sheriff of Washington county, Ter. Rev. for 1853, -	500	00
June 21st, "	Received of W. T. Matlock two hundred and sixty dollars and fifty cents, being the amount audited and paid said Matlock, for services as Librarian during the year 1850, as per order No. 3, filed in this office. Said account having, since the payment made by the Treasurer, been allowed and paid by the Secretary of the Territory, -	260	50
		$5,343	33

Whole amount received during the year, including the balance on hand at the date of the last report, five thousand three hundred and forty-three dollars and thirty-three cents.

Expenditures.

Dec. 17th, 1852.	Paid R. P. Boise, per order No. 21, filed in this office, - - -	$300	00
" 22d, "	Paid Commissioners for bringing the remains of the Hon. S. R. Thurston to Oregon as per order No. 22, now on file in this office, - -	1,000	00
" 28th, "	Paid James McBride per order No. 5, filed in this office, - - -	679	54
Feb. 1st, 1853.	Paid J. D. Boon per order No. 23, now on file in this office, - -	90	64
" " "	Paid W. H. Willson per order No. 24, filed in this office, - - -	200	00
Apr. 4th, "	Paid Quincy A. Brooks per order No. 25, filed in this office, - - -	225	00
" 11th, "	Paid W. H. Willson per order No. 27, now on file in this office, -	100	00
May 5th, "	Paid W. H. Willson per order No. 30, filed in this office, - - -	100	00
" 20th, "	Paid Yamhill county per order No. 29, filed in this office, - - -	364	75
June 8th, "	Paid L. F. Grover per order No. 31, on file in this office, - - -	250	00
July 2d, "	Paid W. H. Willson per order No. 33, filed in this office, - - -	72	00

July 22d, 1853.	Paid L. F. Grover per order No. 34, filed in this office,		$100 00
Aug. 20th, "	Paid J. D. Boon for Sign and Book,		22 00
Sep. 18th, "	Paid W. H. Bennett on order No. 28, now on file in this office,		98 33
Nov. 4th, "	Paid L. F. Grover per order No. 36, on file in this office,		100 00
Nov. 15th, "	Paid Treasurer of Benton county per order No. 26, filed in this office,		630 32
Dec. 3d, "	Paid Alexander Campbell per order No. 35, on file in this office,		265 75
Dec. 6th, "	Paid Sheriff, Washington county, per order No. 28, now on file in this office,		500 00
" " "	Paid J. D. Boon per order No. 37, filed in this office,		90 72
" 10th, "	Paid Sheriff, Washington county, per order No. 28, now on file in this office,		150 00
	Total,		$5,339 05
	Whole amount of receipts up to this date,	$5,343 33	
	" " expenditures " "	5,339 05	
		$4 28	
	Balance remaining in the Treasury December the 12th, 1853, four dollars and twenty-eight cents,		$4 28

Respectfully submitted,

J. D. BOON, *Treasurer.*

I hereby certify the above to be a true copy of the Territorial Treasurer's Report submitted to the House of Representatives, December 12th, 1853.

JOHN M'CRAKEN, *Clerk.*

REPORT

OF THE JUDICIARY COMMITTEE FOR THE REPEAL OF THE STEPHEN'S FERRY CHARTER.

The Judiciary Committee to whom was referred the petitions and affidavits of sundry persons praying for a repeal of an Act entitled, "An Act to authorize James B. Stephens to establish a horse or steamboat ferry across the Willamette river," passed the 17th day of January, 1852, beg leave to report that they

have endeavored to give the subject that attention which its importance demands; and after a careful examination of the facts and the law, they have concluded to recommend that the said Act, so far as it confers on James B. Stephens the exclusive privilege of ferrying within the limits prescribed, be repealed. As this is a matter in which a great portion of the people in northern Oregon are interested, and one which affects, as some have supposed, the vested right of a citizen, the committee deem it proper to state here, the reasons which have induced them to make this recommendation.

The petitioners ask the repeal for reasons in substance as follows:

That in time of high water in the Willamette river, it is necessary in travelling between Portland and Vancouver, to go five miles farther than formerly, when there was a ferry at a point one mile below the one in question.

That the horse boat of Mr. Stephens is not of sufficient power or capacity to accommodate the traveling public; and,

That persons wishing to pass over the river have been frequently detained an unreasonable length of time by Mr. Stephens or his agents, before they were ferried across.

On the other hand, Mr Stephens, as we are informed, claims that he has a vested interest in the ferry franchise, of which he cannot be deprived by any law, and that any Legislative enactment, repealing the rights conferred on him by the Act of 17th January, 1852, would be in violation of that clause of the constitution of the United States, which prohibits a state from passing any law impairing the obligation of contracts, and therefore void. This certainly is a grave question, and one that should be approached by the Legislative Assembly with due caution, and with a disposition to guard the rights of a private individual as well as to subserve the public good.

By the bill accompanying this report, it will be perceived that the exclusive privilege of ferrying within certain limits, conferred on James B. Stephens, by the Act of January 17th, 1852, is taken away, and the Boards of Commissioners of Washington and Clackamas counties are authorized to license other ferries within those limits.

It is undoubtedly true, that many eminent jurists formerly held that a franchise such as the one in question, once granted could not be repealed by the power that gave it, and that no rival franchise could be created to interfere with its privileges or lessen its profits. Chancellor Kent, in his excellent commentaries, declares that "the obligation between the government and the owner of such franchise is mutual. He is obliged to provide and maintain facilities for accommodating the public, at all times with prompt and convenient passage. The law, on the other hand, in consideration of this duty, provides him a recompense by means of an

exclusive toll, to be exacted from persons who use the road or ferry, and of course it will protect him against any new establishment which is calculated to draw away his custom to his prejudice. If the creation of the franchise be not declared to be exclusive, yet it is necessarily implied in the grant, as in the case of the grant of a ferry, bridge or turnpike, or railroad, that the government will not, either directly or indirectly, interfere with it so as to destroy or materially impair its value. Every such interference, whether it be by the creation of a rival franchise, or otherwise, would be in violation or in fraud of the grant. All grants or franchises ought to be so construed as to give them due effect by excluding all competition, which would be injurious and operate fraudulently upon the grant."—3 Kent's Com. 458. Nine years after these commentaries were written, this point came directly before the Supreme Court of the United States, in the celebrated case of the *Charles River Bridge* vs. *the Warren Bridge*, and the law as laid down by Chancellor Kent in the foregoing extract, was held to be incorrect. The Legislature of Massachusetts had granted a charter for the building of the Charles River Bridge, with the right of receiving tolls; and upwards of forty years afterwards, and before the expiration of the time limited in the charter, the public exigency requiring another and a free avenue between the same places, an Act was passed authorizing the erection of the Warren Bridge a few rods from the former, the opening of which, as a natural consequence, reduced the tolls of the former to a very small amount. And this Act was held by the Supreme Court of the United States, to be not unconstitutional—11 Peters' Reps 422. The learned Chancellor, as it appears by a note appended to the above extract from his commentaries, deeply regretted that decision, having concurred in opinion with Mr. Justice Story, who dissented from it. The opinions of these eminent jurists will always command respect, but as against the decisions of the Supreme Court they cannot be received as authority. It is worthy of note in this connection, that the late Chief Justice Marshall held the charter of the Warren Bridge to be constitutional upon the first argument of the cause, and that it was on account of this division of the bench that a second argument was ordered, which he did not live to hear. It is true the point decided in that case is not precisely analogous to that which is now before us. The Legislature in granting the charter for the building of the Charles River Bridge did not expressly state that it should have the *exclusive* right of taking tolls, as was done in granting the Stephens' charter, and it was held by the Court that nothing was to be taken by implication, or presumed in favor of an exclusive grant.

In 1848, the principle involved in this case again came before the Supreme Court of the United States, and in a form quite

similar to that now under investigation by the committee. See the *West River Bridge Co.* vs. *Dix et al.*—6 Howard 507.

In 1795, the Legislature of Vermont passed an Act incorporating the West River Bridge Co. for one hundred years, and gave the company the *exclusive* privilege of erecting and continuing a bridge over West river within four miles from the place where said stream united with the Connecticut river, and taking tolls on the same. During the years 1795, 1796 and 1797, the company built the bridge, and commenced taking tolls. In November, 1839, the Legislature of Vermont passed an Act relating to highways, whereby it was enacted that "whenever there shall be occasion for any new highway in any town or towns in this state, the Supreme and County Courts shall have the same power to take any real estate, easement or franchise of any turnpike or other corporation, when in their judgment the public good requires a public highway, which such courts now have by the laws of this state, to lay out highways over individual or private property; and the same power is granted, and the same rules shall be observed in making compensation to all such corporations and persons, whose estate, easement, franchise or rights shall be taken, as are now granted and provided in other cases."

Under the provisions of this Act, Joseph Dix and others on the 25th day of August, 1842, presented a petition to the County Court for a public highway leading from Brattleboro to the south line of Putney, over and across the West river bridge, and prayed that the easement or franchise of said bridge company, might be taken for the purpose of making a free road and bridge across said river, agreeably to the statute in such case made and provided.

In conformity with the prayer, the court appointed three persons to examine the premises and make report. In May, 1843, the commissioners reported that they had examined the premises, and were of opinion that a new road ought to be laid out, and recommended that the easement or franchise of the West River Bridge Company should be taken as part of that road, and assessed the value of the bridge at $4,000. In November, 1843, the report of the commissioners was accepted, and the court ordered the road to be opened, and the franchise of the bridge company to be taken. In 1844, at the instance of the bridge company, the case was taken to the Supreme Court of Vermont and there affirmed, and was subsequently removed to the Supreme Court of the United States, where it was again affirmed. The chief point relied on by the plaintiffs in error in that case was, that the extinguishment of the franchise before the time limited in the grant, was in violation of the original agreement between the state and the bridge company, and that the Act authorizing it was void, inasmuch as it impaired the obligation of the contract. But the Supreme Court held, that although there

was a contract between the state and the bridge company, "yet (says the court) with this concession constantly yielded, it cannot be justly disputed, that in every political sovereign community, there inheres necessarily the right and duty of guarding its own existence, and of protecting and promoting the interests and the welfare of the community at large. This power and this duty are to be exerted not only in the highest acts of sovereignty, and in the external relations of government; they reach and comprehend likewise the interior polity and relations of social life, which should be regulated with reference to the advantage of the whole society. This power, denominated the *eminent domain* of the state, is as its name imports, paramount to all private rights vested under the government, and these last are, by necessary implication, held in subordination to this power, and must yield in every instance to its proper exercise.

"Under every established government, the tenure of property is derived mediately or immediately from the sovereign power of the political body; but in every grant or contract between the state and the individual, there is an implied understanding that the property granted may be resumed whenever the public good requires it, upon making compensation to the owner. Such is the right of eminent domain; and this right of resumption may be exercised, not only where the safety, but also where the interest or even the expediency of the state is concerned."—3 Paige Rep. 73.

A distinction was attempted to be made in the argument of the case last alluded to, between the power of a government to appropriate for public uses, property which is corporeal, and the like power to resume or extinguish a franchise. But the court held that no well-founded distinction could be made; and that "a franchise to erect a bridge, to construct a road, to keep a ferry, and to collect tolls upon them, granted by the authority of the state, could be taken or extinguished whenever the public good required it. And the exercise of this power was held not to be within the inhibition of the constitution, and no violation of a contract."

The committee are therefore well convinced, that the law as laid down by the Supreme Court, will fully warrant the Legislature in repealing the charter granted to Mr. Stephens, if the public good demands that it should be done.

The next question to be considered is what will be a just compensation for the loss which Mr. Stephens will sustain by the partial repeal of his ferry privilege. The committee are of opinion that in law he has no right to any compensation for the loss of the franchise, but only for the loss in value of any improvements which he may have actually made in pursuance of the act creating the ferry franchise. This is the view of the law taken by Mr. Greenleaf in his edition of Cruise on Real Pro-

perty, and we think it is entirely sound in principle.—2 Greenleaf's Cruise on Real Prop 67. Tit. Franchise. An office and a franchise are in their nature quite similar. Both are privileges conferred by the government upon individuals, to be used for the public good, and not for private gain. Both are essential attributes of sovereignty entrusted to the Legislature, to be exercised in such a way as to conduce to the general welfare of the people, and not to be bartered away, and placed beyond the legislative control, merely to subserve the private interests of any individual. It is true some courts have held that an office conferred upon an individual, for a limited number of years, could not be resumed by the government at pleasure, and that such a resumption would be in violation of a contract between the government and its officer. But of late this doctrine has been, and we think justly, exploded. In *The State* vs. *Daws*—1 R. M. Charlt. Rep. 397, it was held by the Supreme Court of Georgia, upon great consideration, that public officers have no proprietary interest in their offices, and that their duties and rights, which are the consequence of such duties, may be changed by the Legislature during their continuance in office, without any violation of private rights. We believe this to be the correct doctrine. That the supreme authority of a state may abolish any office, before the expiration of the term of the incumbent, whenever the public interest demands that it should be done, and that such officer will have no right in law to claim compensation from the state for his loss of profits.

It is in this light that we look upon a franchise conferred by grant upon an individual, and hold that it may be repealed or modified by the Legislature, whenever the public necessity or convenience may require that it should be done, and that compensation for any supposed loss of profits, ought not to be made to the grantee of such franchise

If these principles be correct, Mr. Stephens will have no right to claim any compensation from the Territory for the partial repeal of the ferry privilege conferred on him. The most he can justly ask is payment for actual losses sustained by the depreciation of his boats and other improvements made in and about the ferry, in pursuance of his contract with the Territory. This we think will not be much, but this he ought to have.

In conclusion, the committee beg leave to say, that in their opinion, the Legislature ought not to turn a deaf or a heedless ear to the complaints of the petitioners who ask for the repeal of this charter. They comprise a great portion of the people of northern Oregon; and that the charter is exceedingly burdensome, and operates oppressively upon them, there can be no doubt. This burden was imposed on them by the Legislative Assembly, without their knowledge and against their will. They have borne with it for the last two years, not in-

deed, without repining, but with all due submission to the laws. To continue it for eight years to come, merely for Mr. Stephens' benefit, would, in our opinion, be a great wrong, too grievous to be patiently endured, even by the most law-abiding people.

The committee, therefore, submit a bill for the repeal of the exclusive ferry privileges conferred on Mr. Stephens by the Act of the 17th January, 1852.

All of which is respectfully submitted.

JAMES K. KELLY, *Chairman.*

COMMUNICATION FROM WM. M. KING.

To the Legislative Assembly of the Territory of Oregon:

The undersigned would respectfully represent that he has learned with surprise, that statements have been made, and perhaps sworn to, by Mr. Boyd, a clerk of the House of Representatives, that I was interested in certain contracts let for the building of the Penitentiary; that large sums of money had been made on such contracts, and that Boyd was also interested in such contracts. The facts are not so. Said Boyd, to my knowledge, never was interested in such contract or contracts as let by the Board of Commissioners; his name not appearing on the bids to whom the contracts were awarded. It is true that said Boyd did put in a bid for different kinds of work, and withdrew the same; and that all statements made by said Mr. Boyd, or any other person, that I was either directly or indirectly interested in any contract for the building of the Penitentiary, is false, and must have been made with some malicious intention, and for the confirmation of which I refer you to the affidavits of each and every contractor for all the work that has been let for the construction of the Penitentiary,—men whose characters will not suffer in comparison with the good men of our Territory I will further state that they, the said contractors, were the lowest bidders for each and every kind of work to which contracts were let.

The undersigned would further state that if such statements have been made, that they are in keeping with the statements he must have made, on which he obtains the large amount which I understand he obtained for his relief,—that is, for board of prisoners, and the irons necessary for their keeping. He, the said Boyd, never paid a dollar for such irons. He, the said Boyd, had not a dollar to pay with. I boarded both prisoner and keeper, from the time of the appointment of such Boyd, keeper,

until some time about the 26th of August, and the Indian convict also with him; and the said Boyd, keeper, has never paid me one dime for his board or keeping of prisoners. Your Hon. orable Body will inquire why we kept said Boyd, as keeper. The answer is, the law required that we should appoint a keeper of the Penitentiary to receive convicts, and we, the Board of Commissioners, could not find a man that would take the appointment under the circumstances in which we are placed. As to the payment of the reward for the recovery of the Indian, offered by the keeper Boyd, he has not paid one cent. The man brought him in on the advertisement and wanted his pay. I knew full well there were enough persons that were ready to make me responsible for whatever acts that might be done by the keeper Boyd. Consequently I paid the amount of $15 which he called for at the time, and the balance has not yet been paid. I would further state that this man, Boyd, has obtained credit in this town on the same misrepresentation that was made to your Honorable Body.

For all the amounts allowed said Boyd, over the amount of what is due him for his time as keeper and the board or feeding the Indian for about three weeks, and the keeping another prisoner about one week, is all wrong.

I wish, therefore, that your Hon. Body will not put into the hands of this man Boyd, that which belonged to others.

WILLIAM M. KING.

TO WILLIAM M. KING, *Acting Commissioner, &c.:*

Dear Sir:—In answer to your request, whether you or any other person is or has been interested with us in the award of the wood-work, copper-work and tin-work, of the Penitentiary building, made to us by the Hon. Board of Commissioners of the Penitentiary, in July last, we are pleased to say that you, or any other person or persons, have no interest, directly or indirectly, in that award; and which fact you will find in the depositions of the senior and junior partners of our firm. Mr. Hiram Field, the other partner, not being in Portland at present, we are sorry we are unable to furnish you his subscription to the deposition.

Very Respectfully your servants, &c.,

TRIPP, FIELD & HALLOCK,
per A. B. H.

PORTLAND, *January 26th*, 1854.

Oregon Territory,
Washington County, } ss:

Abel G. Tripp and Absalom B. Hallock being duly qualified, depose and say that they, together with Hiram Field of St. Helens, O. T., are the persons to whom was awarded the performance of all the wood-work, all the copper work, and all the tin-work of the Penitentiary building, by the Board of Commissioners of the Penitentiary, and that Wm. M. King, acting Commissioner of said board, or any other person, is not nor have ever been interested with us directly or indirectly in this award, and that any statement made by any person to the contrary is not true.

ABEL G. TRIPP.
ABSALOM B. HALLOCK.

Personally appeared A. G. Tripp, who, after being duly sworn, and A. B. Hallock, who, after being duly affirmed, subscribed their names respectively to the foregoing statement.

Given under my hand this 26th day of January, A. D. 1854.

ANTHONY L. DAVIS, *Justice of the Peace.*

Washington County,
Oregon Territory, } ss:

H. S Jacobs, Wm. M'Millen, George Kittridge and F. Harbaugh, being duly sworn, depose and say that they are the contractors for all the stone-work for the Penitentiary, entered into with the Commissioners of said Penitentiary, and that Wm. M. King, the acting Commissioner, is not or has not been interested, either directly or indirectly with us, or any other person interested in said contract, and any statement made to the contrary is not true.

F. HARBAUGH.
GEO. KITTRIDGE.
W. M'MILLEN.
H. S. JACOBS.

Subscribed and sworn to before me,
this 26th day of January, 1854.

ANTHONY L. DAVIS, *Justice of the Peace.*

Washington County,
Oregon Territory, } ss:

William H. Frush, of Clackamas county, being duly sworn, deposeth and saith, that he is the contractor for the grubbing,

clearing and excavation of the grounds for the Penitentiary, and also for all the iron work for said Penitentiary, entered into with the Commissioners of said Penitentiary, and that Wm. M. King, acting Commissioner, or any other person is not or has been interested, either directly or indirectly, with me in said contracts, and any statement made by any person to the contrary is not true.

WM. H. FRUSH.

Subscribed and sworn to before me, this 26th day of January, 1854,

ANTHONY L. DAVIS, *Justice of the Peace.*

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